

ANNUAL REPORT OF THE INTERNAL REVENUE
SERVICE TAXPAYER ADVOCATE

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
OF THE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES
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**ANNUAL REPORT OF THE INTERNAL
REVENUE SERVICE TAXPAYER ADVOCATE**

TUESDAY, FEBRUARY 25, 1997

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON OVERSIGHT,
Washington, DC.

The Subcommittee met, pursuant to notice, at 1:11 p.m., in room B-318, Rayburn House Office Building, Hon. Nancy L. Johnson (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE

CONTACT: (202) 225-7601

February 13, 1997

No. OV-1

Johnson Announces Hearing on the Annual Report of the Internal Revenue Service Taxpayer Advocate

Congresswoman Nancy L. Johnson (R-CT), Chairman, Subcommittee on Oversight of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the first Annual Report to Congress from the Internal Revenue Service (IRS) Taxpayer Advocate. The hearing will take place on Tuesday, February 25, 1997, in room B-318 Rayburn House Office Building, beginning at 2:00 p.m.

In view of the limited time available to hear witnesses, oral testimony at this hearing will be heard from invited witnesses only. The Subcommittee will receive testimony from Lee Monks, the IRS Taxpayer Advocate, and from several IRS District Office Taxpayer Advocates who work on the front lines trying to resolve taxpayers' problems. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

Last year, Congress enacted the Taxpayer Bill of Rights 2 (TBOR2) (P.L. 104-168), which expanded upon existing safeguards available to taxpayers in their dealings with the IRS enacted in 1988 in the original Taxpayer Bill of Rights. Among other things, TBOR2 required the IRS Taxpayer Advocate to make an annual report to Congressional tax-writing committees identifying the initiatives undertaken by the Taxpayer Advocate in the previous fiscal year to improve taxpayer services and IRS responsiveness. The report would also have to identify the 20 most serious problems taxpayers experience in their dealings with the IRS, and to recommend appropriate administrative and legislative actions to address such recurring problems.

The IRS created the Problem Resolution Program (PRP) in 1976 in an effort to better assist taxpayers in cutting through "red tape" and more quickly resolve tax disputes. In 1979, the IRS created the Office of the Taxpayer Ombudsman, an executive level position on the immediate staff of the IRS Commissioner, to head the PRP organization. The Taxpayer Ombudsman's chief responsibility was to serve as the primary advocate, within the IRS, for taxpayers.

Throughout the Taxpayer Ombudsman's existence, the position has been held by a career civil servant selected by the IRS Commissioner. In response to a perception that the Taxpayer Ombudsman did not have sufficient stature and authority within the IRS to be an independent advocate for taxpayers, TBOR2 elevated this position within the IRS, renamed it the "Taxpayer Advocate," and increased the Taxpayer Advocate's legal authority to intervene on behalf of taxpayers. Along with giving the Taxpayer Advocate expanded powers, Congress also wanted to exercise more oversight over how the Taxpayer Advocate was administering the PRP. Therefore, TBOR2 required the Taxpayer Advocate to make the above mentioned annual report to Congress.

In announcing the hearing, Chairman Johnson stated: "As taxpayers sit down to prepare their 1996 income tax returns, I want them to know that Congress is proactively examining ways to improve the quality of IRS' customer service. The Taxpayer Advocate's Annual Report is one means of helping us to identify and understand the most frequent problems taxpayers face in their dealings with the IRS, and to develop improvements to minimize the frictions that often occur between taxpayers and the nation's tax collector."

FOCUS OF THE HEARING:

The hearing will examine the details of the Taxpayer Advocate's "Annual Report to Congress" covering fiscal year 1996, to identify what further administrative and legislative actions may be appropriate to reduce the burdens taxpayers experience in transacting business with the IRS.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement and a 3.5-inch diskette in WordPerfect or ASCII format, with their address and date of hearing noted, by the close of business, Tuesday, March 11, 1997, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Oversight office, room 1136 Longworth House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments. At the same time written statements are submitted to the Committee, witnesses are now requested to submit their statements on a 3.5-inch diskette in WordPerfect or ASCII format.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at [HTTP://WWW.HOUSE.GOV/WAYS_MEANS/](http://WWW.HOUSE.GOV/WAYS_MEANS/).

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-225-1904 TTD/TTY in advance of the event (four business days notice is requested).

Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman JOHNSON. Good afternoon. The hearing will come to order. My apologies to my colleagues for being detained at the hearing of the Health Subcommittee, which went on a good deal longer than we thought.

I want to welcome you all, though, to this first Oversight Subcommittee hearing of the 105th Congress. We have a challenging agenda ahead of us this year and we believe that by digging into it right off the bat, we can make a real difference in people's lives.

Today's hearing is a good example of how we can help our constituents by working to improve the operation of the Federal Government. Congress and the executive branch have a long history of working together to try to solve taxpayers' problems, to help taxpayers with their disputes with the IRS. The IRS established a Problem Resolution Program in 1976 which was headed by a Taxpayer Ombudsman. While this effort is commendable, there are limits to what the IRS can do for taxpayers, based on its administrative authority. The really meaningful taxpayer safeguards usually require changes in the law and this is what happened in the original 1988 Taxpayer Bill of Rights and last year's sequel, the Taxpayer Bill of Rights 2, or TBOR2, as we call it.

Congress passed TBOR2 in July 1996. It improved the procedural rights of taxpayers in dealing with the IRS. For example, it gave taxpayers who prevail over the IRS in court the upper hand in getting their attorneys' fees reimbursed by the IRS. It required the IRS to make reasonable efforts to corroborate the accuracy of disputed information. It also gave the IRS the legal authority to abate interest on tax deficiencies and to return improperly seized property to the taxpayer.

None of these provisions is flashy or glamorous, but frankly, these are the type of nitty-gritty details that can make a taxpayer miserable or happy, bankrupt or solvent when he or she has a dispute with the IRS. So in the individual lives of people with problems, these changes make a dramatic difference.

But TBOR2 did more than just enact several dozen procedural safeguards for taxpayers. It strengthened the IRS' own administrative program for helping taxpayers. It established the position of Taxpayer Advocate within the IRS to replace the Taxpayer Ombudsman. It increased this office's legal authority to help taxpayers. But along with this increased authority, Congress also wanted increased accountability. Therefore, TBOR2 requires the Taxpayer Advocate to submit an annual report to Congress.

The annual report is supposed to summarize the activities of the Taxpayer Advocate for the preceding fiscal year. In particular, it is to discuss the top 20 problems which taxpayers are experiencing in dealing with the IRS as well as providing recommendations on how to address these problems either through administrative or legislative changes.

Therefore, the annual report should pinpoint where taxpayers are experiencing the most serious problems with the IRS and present us with possible legislative changes that might address these problems.

As taxpayers begin filling out their 1996 Federal income tax returns, we should continue to try to make the experience as smooth as possible, not one necessarily enjoys, as few enjoy paying taxes, but the operational mechanics of obeying the law to be as user friendly as possible. I hope that the Taxpayer Advocate's Annual Report will give us many good ideas on how to improve the tax system.

I welcome our witnesses. I look forward to their testimony and I yield to my Ranking Member, Mr. Coyne.

Mr. COYNE. Thank you, Madam Chairwoman.

Today's hearing will be one of the most important and interesting sessions that the Oversight Subcommittee will have this year.

First, I want to welcome Lee Monks, the current IRS Taxpayer Advocate and thank him for his 1996 report. I look forward to our discussion of the issues he has raised about, number one, the most serious problems facing taxpayers throughout the country, number two, his recommendations for legislative and administrative reform, and number three, the IRS' Problem Resolution Program.

The 1996 Advocate's Report provides us with a good assessment of what needs to be done to make the IRS a more taxpayer-friendly and customer-oriented operation. Of particular interest to me are several problem areas highlighted by the Advocate in his report, such as tax law complexity, problems in researching IRS rules by telephone, reaching the IRS by telephone, erroneous IRS notices, administration of the earned income tax credit, lack of clarity in IRS letters and notices, and the IRS' failure to understand taxpayers' concerns.

Clearly, it is our responsibility on the Oversight Subcommittee to make certain that the IRS, in fact, does take all necessary steps to make it easier and less frustrating for taxpayers to fulfill their tax obligations.

Also, before we begin, I want to give a warm welcome to the five Problem Resolution Officers who have come from many parts of the country to share with us their thoughts and experiences in providing assistance to the Nation's taxpayers. Particularly, I want to thank Louis Romito for coming here today. Mr. Romito is the Associate District Taxpayer Advocate for the Pittsburgh area. He will provide the Subcommittee with his insight into various aspects of the Taxpayer Advocate's 1996 Report, his experiences in acting on behalf of taxpayers with the IRS and his suggestions for improving the IRS and the Problem Resolution Program, PRP.

Let me conclude by saying that the Problem Resolution Program staff are the backbone of fairness within the IRS. All of us here today appreciate your commitment and continued efforts to resolve taxpayers' problems. After reading the Advocate's Report, maybe one of the major problems taxpayers face is a shortage of PRP staff.

I look forward to working with the Chairwoman and other Subcommittee Members in our effort to address each of the problem areas under discussion here today, and I would ask that my full statement be included in the record.

Chairman JOHNSON. So ordered.
[The prepared statement follows:]

Statement of Hon. William J. Coyne, a Representative in Congress from the State of Pennsylvania

Today's hearing will be one of the most important sessions of the Ways and Means Oversight Subcommittee.

I want to welcome, as our lead witness, the current IRS Taxpayer Advocate. Mr. Lee Monks will testify on the "Taxpayer Advocate's Annual Report to the Congress—Fiscal Year 1996."

The Report discusses (1) the twenty most serious problems facing taxpayers in dealing with the IRS, (2) the Advocate's recommendations for administrative and legislative actions to address the problems, and (3) the activities of the IRS Problem Resolution Program.

Also, I want to give a warm welcome to the five Problem Resolution Officers who have come from all over the country to share with us their thoughts and experiences in providing assistance to taxpayers.

Particularly, I want to thank Lou Romito for coming today. Mr. Romito is the Associate District Taxpayer Advocate for the Pittsburgh, Pennsylvania area.

Importantly, Mr. Romito will provide the Subcommittee with his insight into various aspects of the Taxpayer Advocate's 1996 Report, his experiences in acting on behalf of taxpayers within the IRS, and his suggestions for improving the Problem Resolution Program.

As a result of the Oversight Subcommittee's work last year, the Taxpayer Bill of Rights 2 legislation included a requirement that the Taxpayer Advocate report to the Congress on the major problems facing taxpayers. Today, we will receive his Report.

The Report is a good assessment of what the IRS needs to do to make itself a more taxpayer-friendly, customer-oriented operation. Accordingly, the Report can be used by the Oversight Subcommittee, the IRS, and the Treasury Department as a tool for helping the IRS address the more day-to-day, yet critically important, problems taxpayers face in dealing with the IRS.

Clearly, the Problem Resolution Program staff are the backbone of fairness at the IRS. I know that all of us here today appreciate their continued efforts to work out all those problem cases dropped in their laps by other IRS employees, by Congressional offices, or directly from taxpayers.

Frankly, I think that the biggest problem taxpayers face in dealing with the IRS is that there are not enough Problem Resolution staff employed by the IRS. I hope to work with the Subcommittee Chair and Members to see what we can do to insure the proper and necessary level of Problem Resolution staffing.

Finally, there are several issues of particular concern to me which I want to raise at today's hearing. They are: lack of clarity and inappropriate tone of IRS communications; lack of understanding of taxpayers' concerns; problems maintaining taxpayers' current addresses; problems in the administration of the earned income tax credit; and inconvenient times and locations for doing business with the IRS.

I commend the Chairwoman for her interest in the operations of the Taxpayer Advocate and his staff, and look forward to working with all Members of the Subcommittee to develop pro-taxpayer legislation where needed, to recommend administrative changes within the IRS, and to consider funding issues with regard to our annual recommendations to the Appropriations Committee.

Chairman JOHNSON. If other Members have a brief comment, I will recognize them, but we do want to move forward.

Mr. Ramstad.

Mr. RAMSTAD. Madam Chair, very briefly, I want to thank you for convening this important hearing on the Annual Report of the Taxpayer Advocate. It certainly will be useful for this Subcommittee to learn whether the reforms that we passed last year in the Taxpayer Bill of Rights 2 are actually helping to protect taxpayers in their disputes with the IRS.

Earlier this month, Madam Chair, I met with several tax experts who serve on my tax advisory committee back home in Minnesota. These are true tax experts representing a lot of the Fortune 500 corporations and so forth. They are working right now on drafting a State version of the Taxpayer Bill of Rights for Minnesota based on what we did here in Washington. They are anxious to see a copy of the annual report to guide them in their deliberations. They expect it to be very, very helpful.

I certainly must say, I was disappointed that the report has no specific legislative recommendations for addressing certain pressing taxpayer problems, but I hope this hearing today will propel us toward greater protections and better services for the American taxpayers.

So again, Madam Chair, thank you for your leadership in holding this hearing and I thank the witnesses, as well.

Mr. KLECZKA. Madam Chair.

Chairman JOHNSON. Mr. Kleczka.

Mr. KLECZKA. Madam Chair, very briefly, on the second panel, we also have Elayne Goldstein who is from Milwaukee and is the Midwest District Taxpayer Advocate, and I should say that she and her colleagues have been very helpful to my office in Milwaukee and not only my office but also my constituents, so I welcome Elayne here today and we look forward to your testimony.

Chairman JOHNSON. Are there other Members who wish to comment?

Mrs. THURMAN. Madam Chairman.

Chairman JOHNSON. Yes.

Mrs. THURMAN. I would like to take this opportunity also to welcome Jeanne Williams, who is from North Florida and is our Taxpayer Advocate. Jeanne, I bring lots of hellos from my office in Inverness who have talked about you so fondly and what you have been able to accomplish for many of our constituents and our taxpayers, and we understand that you are going to be retiring soon, so we look forward to some very candid remarks from you this afternoon. Thank you for being here.

Chairman JOHNSON. Thank you.

Mr. Monks, welcome to you and please proceed with your testimony.

**STATEMENT OF HON. LEE MONKS, TAXPAYER ADVOCATE,
INTERNAL REVENUE SERVICE; ACCOMPANIED BY TOM
TIFFANY, EXECUTIVE ASSISTANT**

Mr. MONKS. Thank you, Madam Chair and distinguished Members of the Subcommittee.

I am very pleased to be here today to discuss the role of the Taxpayer Advocate and the Problem Resolution Program in serving the needs of the taxpayers of our country and also the First Annual Taxpayer Advocate's Report to the Congress.

My name is Lee Monks and I am currently the Taxpayer Advocate for the IRS and with me is Tom Tiffany, my Executive Assistant, as well as the five field Taxpayer Advocates from five of our district offices. I will try to summarize from my written testimony, which, of course, represents my own thoughts and not the official position of the IRS.

As was alluded to, 1997 marks an important anniversary for the Problem Resolution Program, or PRP, for short. PRP was officially implemented 20 years ago, in 1977, following a test of the program in four of our district offices during 1976. The program was originally established to assist taxpayers with problems that seemingly could not be resolved elsewhere within the Service.

The continuing success of the program during that time span has never been more evident than during the past few years. We continue to provide assistance to thousands of taxpayers on a weekly basis with their problems with the IRS and we pay particular attention to those situations involving significant hardship.

In addition, we also play a major role in the identification of internal systems, policies, procedures, and so on, that cause problems for taxpayers and try to determine the underlying causes of those specific problems.

Organizationally, I report directly to the Commissioner and serve as a member of the IRS Executive Committee. In each IRS region, district, and service center, there is a Problem Resolution Officer, PRO, who reports directly to the head of office and receives functional program direction and oversight from the Taxpayer Advocate.

Just to give you a feel for the magnitude of our program, during fiscal year 1996, PRP received over 282,000 regular PRP cases and over 30,000 Taxpayer Assistance Orders requests. A majority of our cases are referred and identified by Service employees, over 50 percent, with the balance split between referrals from tax preparers and those received directly from taxpayers.

The Taxpayer Bill of Rights 2, or TBOR2, provided a number of enhancements to PRP and to the position of Taxpayer Advocate. First of all, of course, the title of the position was changed to Taxpayer Advocate and the Advocate was provided with additional authority to assist taxpayers in hardship situations.

In addition, the Advocate was designated to participate in the selection and evaluation of all field PROs and the authority to modify or rescind Taxpayer Assistance Orders was limited to the Commissioner, Deputy Commissioner, and the Taxpayer Advocate. It is my belief that these actions provided both additional authority to the Advocate and our field PROs and also served to strengthen the lines of authority and the working relationships between the PROs in the field and the Taxpayer Advocate.

One of the most significant aspects of TBOR2 as it impacted on my position was the requirement to issue two reports annually to the Congress. One report, which is due June 30 of this year, will detail the objectives and activities of my office for the coming fiscal year.

The primary report, the subject of this hearing, was published at the end of the year and focuses on the major activities of my office and that of our field PROs for the past fiscal year. It includes a number of areas that were specifically required by TBOR2 legislation. For example, the Advocate is required to identify the initiatives undertaken to improve service to taxpayers along with a summary of at least the 20 most significant problems encountered by taxpayers. A list of specific recommendations for dealing with the problems identified and the Service's response to those rec-

ommendations is also required. This report provides a mechanism for the Taxpayer Advocate to elevate continuing problems, issues, and gain support for organizationally driven improvement activities.

As a result of the first report to the Congress and the data provided by my office to the members of the IRS Executive Committee, a number of improvement initiatives are already underway, all of which should have a positive impact on taxpayers, and I'll touch on some of that activity a little later in my remarks.

Other areas required to be reported on include Taxpayer Assistance Orders not honored in a timely manner and the extent to which regional PROs participate in the selection and evaluation of local PROs.

As specified in TBOR2, the Advocate is required to submit this report directly to the Congress without prior review by officials of the IRS, the Department of Treasury, or the Office of Management and Budget.

My office has also been highly involved with a number of other elements of TBOR2, including the lien and levy provisions and the requirement that IRS provide an annual report to the Congress on allegations of misconduct by IRS employees. The chief management and administration and I were designated by the Deputy Commissioner to take the lead in establishing what we now refer to as the Customer Feedback System.

Information from that system will reside on the same data base that we use to currently capture data on our PRP casework, the Problem Resolution Management Information System, or PROMIS, for short. We recently completed modifications required to house this data on the PROMIS system and are currently completing input of data for October through December 1996. Following the input and our analysis of this input, we expect to be able to pinpoint any trends that may be present and to recommend appropriation actions to the Commissioner. Our first report on allegations of misconduct is due to the Congress on June 30 of this year.

I was appointed to the position of Taxpayer Advocate in June 1993 and am the fifth individual to serve in this capacity, although, of course, the first to hold the title of Taxpayer Advocate, and I view this change as certainly a more descriptive depiction of my role and for that of our field PROs, as well.

And, in fact, I've recently approved a name change for our field PROs. Their new titles are now Regional Taxpayer Advocate, District Taxpayer Advocate, and Service Center Taxpayer Advocate. They will still be responsible for managing the Problem Resolution Program within their areas of responsibility but will also be responsible for supporting national, regional, and local advocacy initiatives and providing input to the Advocate's report. This is a role that I think that they're well suited for and one which many, if not all, have been engaged in for several years.

Following my appointment to the position of Taxpayer Advocate, the Commissioner and Deputy Commissioner made advocacy one of my top priorities. In order to be effective in this particular area, however, you need to have data on the types of problems that taxpayers are experiencing with the Service and the sources of those problems.

We began to revamp our PROMIS system, which at the time was a loose configuration of local data bases primarily designed to serve as an inventory control system for our local offices. While data was rolled up at the regional and national level, it did not provide top-level management with the ability to track and trend problem areas, the ability that we have today.

We initiated a change to our case codes to help us better reflect major problems taxpayers were experiencing with the IRS, and over the past 18 months have completed a major transition, from 75 local data bases in each of our districts and service centers to a single national system housed in the Kansas City Service Center. This system was the source of the information provided to the IRS Executive Committee on the top 10 categories for PRP casework within each region and for the service centers and from which the charts in the Advocate's Report to the Congress were derived.

The information on the top 10 sources of PRP casework on a national level is outlined in my report. I'm not going to go over those because they are in my report, but the number one and number two items deal with requests for audit reconsiderations and refund inquiries and requests.

I've asked the Regional Commissioners to review the data for their respective regions in order to prioritize potential improvement initiatives and report back on their findings. My office will provide whatever coordination is necessary with the regional offices to assure that we are not duplicating efforts and to maximize coverage of the problem issues that taxpayers are facing in their dealings with the IRS. This activity, of course, will be included in my next report to the Congress. We are also establishing a process to ensure that ongoing feedback is received from local Taxpayer Advocates on their individual initiatives and recommendations.

I mentioned earlier that I would comment on some of the activity underway as a result of my first report and the data provided on problem issues. First of all, each region has established a Regional Advocacy Council to serve as the arm for the Regional Commissioner in reviewing the data that we provide for each area. Each Regional Advocate will be a key member of that council.

In addition, the Advocacy Councils will be responsible for determining, in conjunction with my office, which issues are the most important and for conducting an analysis of the casework in their areas to determine underlying causes for problems and then for making recommendations to correct any deficiencies that they identify. Several specific issues are currently being reviewed which are a direct result of their being included either in the top 10 sources for PRP casework or in the list of the most significant problems that taxpayers face in dealing with the IRS. These include collection issues, failure to deposit penalties associated with Federal tax deposit requirements, taxpayer access to toll free, notice clarity, audit reconsiderations, and so on.

In addition to this activity, my staff is constantly reviewing implementation of various IRS programs, such as the Revenue Protection Strategy, which was designed to deal with refund fraud, and the recently enacted legislation on math errors and individual tax identification numbers to ensure that taxpayer rights are being protected and that procedures are developed to expeditiously han-

dle any cases involving taxpayers that are inadvertently caught up in these processes.

I also indicated in my first report that we have developed plans to secure direct input from taxpayers through a series of focus groups cosponsored by our Strategic Planning Division. Tentative plans are to conduct 10 focus groups in 5 locations with 5 of these focus groups devoted to individual taxpayers and the balance to small businesses.

In addition, we plan to also include input from key stakeholders by working with the various liaison committees that meet periodically with the Commissioner. This, in my opinion, will provide a more comprehensive approach to the identification of problem areas affecting taxpayers in their dealings with the IRS as well as provide potential sources for recommendations to correct any deficiencies that we can include in subsequent reports to the Congress.

One area that I was specifically asked to comment on deals with the most common problems facing taxpayers in their dealings with the IRS, and while there is not time to cover each of the 20 items included in my report, I would like to at least address the first three items.

The first deals with the complexity that taxpayers face in complying with the tax law. In dealing with the issue of complexity, it is interesting to note that over 70 percent of individual filers use the standard deduction, which means that they are filing a relatively simple return. We are also trying, of course, to make this process easier for taxpayers by offering more methods of electronic filing, such as the TeleFile Program, which is available to approximately 26 million taxpayers and has already surpassed last year's totals for the full filing period.

I think it is important to keep complexity in perspective. Yes, the tax system is complex, and yes, we need to continue to work with the Congress to make it easier for individual taxpayers and small businesses to comply with their filing obligations, but our tax system is viewed by others outside this country as the model for the world. We receive over 200 million returns and collect over \$1.4 trillion annually. In striving to make this system easier to deal with, we must recognize that equity and simplicity are often competing factors and the more we strive to achieve equity in the tax system, we may be adding complexity.

In my report, I included a proposal that would assist in determining and perhaps limiting burden by establishing a methodology to score burden, much as is done for revenue. This would ensure that burden is given full consideration by the Congress at the time new tax law is being considered.

The second item that I want to discuss is taxpayer access to toll free. This has been a problem for several years and has been the subject of much concern both inside and outside of IRS. A number of actions have been and are being taken to move us in the right direction in this program.

First, we have established task groups to identify specifically why taxpayers are calling us so often for information that is readily available in their tax packages or other information forms. The hope is that we will be able to reduce some of this demand on our system or move certain traffic to automated systems so that we can

provide better access to those live assisters that actually need to talk to a live assister to achieve service.

Second, we have put more resources into our toll-free program this year and the results have been very positive. Service or access levels are up this year by up to 68 percent, compared to 48.6 percent last filing period. Obviously, we are not where we want to be yet, but it is a move in the right direction. We are also looking at the best in the industry in the private sector to learn what we can from them in improving the effectiveness of our toll-free services.

Third, I want to just briefly discuss the progress that is being made in the improvement of our forms and notices. We have had a reengineering team reviewing all of our forms and notices, particularly those identified as high volume or needing clarification. This task group has identified a number of changes to improve the wording of our notices and has proposed eliminating or the combining of notices that cause confusion for taxpayers. We estimate that we have eliminated somewhere in the neighborhood of 16 to 18 million notices that will be issued on an annual basis.

My staff also works closely with the notice review area to review proposed modifications, trying to look at it from a taxpayer's perspective. Obviously, there is still much to be done in this area and we are also interested in input from our stakeholders. I will be including this as a discussion item with our taxpayer focus groups and also with our tax practitioner group discussions later this year.

In closing, I want to stress again the important role that PRP plays in addressing the needs of taxpayers who experience problems in their dealing with the IRS. We want them to know that their concerns are important to us and that they will be addressed as quickly as possible. Once we fix their problems, we also want to be able to move forward and fix the systems that created the problems in the first place.

To meet this challenge, we recognize we need a lot of assistance. We need the support of the organization in providing resources to address systemic concerns. We need the support of our stakeholders to elevate problems to our attention and to assist in coming up with potential solutions to identified problems. And, most importantly, we need the support of the American taxpayers to let us know how we are doing in serving as their advocate within the IRS.

This ends my prepared comments and I am willing to address any questions that you might have at this time.

[The prepared statement and report follow:]

Statement of Lee Monks, Taxpayer Advocate, Internal Revenue Service

I am very pleased to be here today to discuss the role of the Taxpayer Advocate and the Problem Resolution Program (PRP) in serving the needs of our taxpayers and the first annual Taxpayer Advocate's Report to the Congress. I want to make it clear that this testimony reflects my own thoughts and does not represent the official position of the IRS. As you may be aware, 1997 marks an important anniversary for PRP. PRP was officially implemented 20 years ago in 1977 following a test of the program in four district offices during 1976. The program was originally designed to assist taxpayers with problems that seemingly couldn't be resolved elsewhere within the Service. The continuing success of the program throughout that time span has never been more evident than during the past few years. PRP continues to provide assistance to thousands of taxpayers on a weekly basis with their problems with the IRS. We pay particular attention to those situations involving significant hardship. In addition, we also play a major role in the identification of

internal systems, policies and procedures that cause problems for taxpayers and try to determine the underlying causes of those problems.

Organizationally, the Taxpayer Advocate reports directly to the Commissioner and serves as a member of the IRS Executive Committee. In each IRS region, district and service center, there is a Problem Resolution Officer (PRO) who reports directly to the head of the office and receives functional program direction and oversight from the Taxpayer Advocate. To give you a feel for the magnitude of the program, during Fiscal Year 1996 PRP received over 282,000 regular PRP cases and over 30,000 Taxpayer Assistance Orders (TAOs). The majority of our cases are identified and referred to PRP by Service employees (over 50 percent) with the remaining total split between tax preparer referrals and those received directly from taxpayers.

The Taxpayer Bill of Rights 2 (TBOR2) provided several enhancements to PRP and to the position of Taxpayer Advocate. First, the title of the position of Taxpayer Ombudsman was changed to Taxpayer Advocate and the Advocate was provided with additional authority to assist taxpayers in hardship situations. In addition, the Advocate was designated to participate in the selection and evaluation of all field PROs and the authority to modify or rescind TAOs was limited to the Commissioner, Deputy Commissioner and the Taxpayer Advocate. These actions provided both additional authority to the Advocate and field PROs, and also served to strengthen the line of authority and the working relationship between field PROs and the Taxpayer Advocate.

One of the most significant aspects of TBOR2, as it impacted on the Taxpayer Advocate, was the requirement to issue two reports annually to the House Ways and Means Committee and the Senate Finance Committee. One report, due on June 30th of this year, will detail the objectives and activities of the Taxpayer Advocate for the coming fiscal year. The other report, which was due December 31st of last year, focused on the major activities of the Taxpayer Advocate for the past fiscal year and includes a number of areas as specified by the legislation. For example, the Advocate is required to identify the initiatives undertaken to improve service to taxpayers, along with a summary of at least the 20 most significant problems encountered by taxpayers. A list of specific recommendations for dealing with the problems identified and the Service's response to those recommendations is also required. This report provides a mechanism for the Taxpayer Advocate to elevate continuing problem issues and gain support for organizationally driven improvement activities. As a result of the first Report to the Congress and the data provided by the Taxpayer Advocate to members of the IRS Executive Committee, a number of improvement initiatives are underway, all of which should have a positive impact on taxpayers. I will touch on some of that activity later in my remarks.

Other areas required to be reported on include TAOs not honored in a timely manner and the extent to which regional PROs participated in the selection and evaluation of local PROs. As specified in TBOR2, the Advocate is required to submit this report directly to the Congressional Committees without prior review by officials of the IRS, the Department of Treasury or the Office of Management and Budget.

My office has also been highly involved with a number of other elements of TBOR2, including the lien and levy provisions and the requirement that the IRS provide an annual report of allegations of misconduct by IRS employees. The Chief Management and Administration and I were designated by the Deputy Commissioner to take the lead in establishing what we now refer to as the Customer Feedback System. Information from that system will reside on the same data base used to capture trend data on PRP casework, the Problem Resolution Office Management Information System, or PROMIS for short. We recently completed the modifications required to house the data on the PROMIS system and are currently completing input of data for October through December 1996. Following input and our analysis, we expect to be able to pinpoint any trends that may be present and to recommend appropriate actions to the Commissioner. Our first report on allegations of misconduct is due to the Congress June 30, 1997.

I was appointed to the position of Taxpayer Ombudsman in June 1993, following a three month detail to that position after Damon Holmes' retirement in February 1993. I am the fifth individual to serve in this capacity, although the first to hold the title of Taxpayer Advocate. I view the change in my title as certainly a more descriptive depiction of my role and for that of our field PROs as well. And in fact, I have recently approved a name change for the field PROs. Their new titles are Regional Taxpayer Advocate, District Taxpayer Advocate and Service Center Taxpayer Advocate. They will still be responsible for managing the problem resolution program within their areas of responsibility but will also be responsible for supporting national, regional and local advocacy initiatives and providing input to the Ad-

vocate's report. This is a role they are well suited for and one which many, if not all, have been engaged in for several years.

Following my appointment to the position of Taxpayer Ombudsman, the Commissioner and Deputy Commissioner made advocacy one of my top priorities. In order to be effective on a national scale, however, you need data on the types of problems that taxpayers are experiencing and the sources of those problems. We began to revamp the PROMIS system, which at the time, was a loose configuration of local data bases, primarily designed to serve as an inventory control system for the local offices. While data was rolled up at the regional and national level, it did not provide top-level management of PRP or the IRS the ability to track and trend problem areas that we have today. We implemented a change to our case codes to better reflect major issues or problem areas experienced by taxpayers and over the past 18 months have completed a major transition from 75 local data bases to a single national system housed in the Kansas City Service Center. This system was the source of the information provided to the IRS Executive Committee on the top ten categories for PRP casework within each region and for the service centers and from which the charts in the Advocate's Report to Congress were derived. The information on the top ten sources of PRP casework on a national level is outlined on page 7 of my report to the Congress. To recap they are:

1. Requests for audit reconsideration
2. Refund inquiries/requests
3. Lost or misapplied payments
4. Problems in processing of individual returns
5. Processing of claims or amended returns
6. Other penalties (other than FTD penalties)
7. FTD penalties
8. Earned Income Credit issues
9. Revenue Protection cases
10. Installment agreements

I have asked the Regional Commissioners to review the data for their respective regions in order to prioritize potential improvement initiatives and report back on their findings. My office will provide the necessary coordination with the regional offices to ensure we are not duplicating efforts and to maximize coverage of the problem issues taxpayers are facing in their dealings with IRS. This activity will be included in my next report to the Congress. We are also establishing a process to ensure ongoing feedback is received from local PROs on their individual initiatives and recommendations.

I mentioned earlier that I would comment on some of the activity underway as a result of my first report and the data provided on problem issues. First, each region has established a Regional Advocacy Council to serve as the arm for the Regional Commissioner in reviewing the data we provided for their region. Each Regional Advocate will be a key member of their council. In addition, the Advocacy Councils will be responsible for determining, in conjunction with my office, which issues are the most important and for conducting an analysis of casework to determine underlying causes for problems and then making recommendations to correct any deficiencies identified. Several specific issues are currently being reviewed which are a direct result of their being included either in the top ten sources for PRP casework or in the list of the most significant problems taxpayers face in dealing with the IRS. These include collection issues, Failure to Deposit penalties associated with federal tax deposit requirements, taxpayer access to toll-free, the Earned Income Credit, audit reconsideration and penalty administration. In addition to this activity, my headquarters staff is constantly reviewing implementation of various IRS programs such as the Revenue Protection Strategy to deal with refund fraud and the recently enacted legislation on math error and Individual Tax Identification Numbers (ITINs) to ensure that taxpayer rights are being protected and that procedures are developed to expeditiously handle cases involving taxpayers inadvertently caught up in these processes.

I had also indicated in my first report that we have developed plans to secure direct input from taxpayers through a series of focus groups co-sponsored by our Strategic Planning Division. Tentative plans are to conduct ten focus groups in five locations with five devoted to individual taxpayers and the balance to small businesses. In addition, we plan to also include input from key stakeholders by working with the liaison groups that meet periodically with the Commissioner. This will provide a more comprehensive approach to the identification of problem areas affecting taxpayers in their dealings with the IRS as well as a potential source for recommendations to correct any deficiencies identified.

Although not specifically asked to testify about the organizational placement of the position of Taxpayer Advocate or the reporting of field PROs to either the local head of office or the Taxpayer Advocate, I would like to comment briefly on both of those issues.

To be truly effective as the Taxpayer Advocate, the individual in that position must have the support of both the Commissioner and the Deputy Commissioner. This is true from several perspectives. First, you must feel free to be able to identify situations where Service action or inaction has the potential to harm taxpayers. This may be as the result of planned changes in policies and procedures by the Service or when IRS systems fail to perform as expected. Second, you must be able, through your actions, to provide immediate relief to taxpayers and/or cause the organization to review the way in which their systems are operating and take corrective actions. That latter area is a more difficult task since, although one may be granted the freedom to point out systemic problems, you must rely on others, who have ownership of the operational systems, to assist in or actually conduct the reviews and analysis of problem areas and then to implement the appropriate corrective actions.

This points out an important third element of support required for this job. You must be able to work in conjunction with and have the support of the operational entities to get the things done that you feel are critical. I feel that the Commissioner and the Deputy Commissioner have provided me the necessary support to accomplish my job. This support has been highly visible throughout the executive ranks and the organization. Improved data from the PROMIS system to validate the volume and types of taxpayer problems have helped gain the support needed from operational areas to review and correct systems deficiencies. The additional leverage for systems improvement provided by TBOR2 and the Advocate's Report should elevate the organization's efforts in this area to an even higher level. As a result, I feel strongly that the position of Taxpayer Advocate should remain within the IRS since we have demonstrated our capability to be extremely effective in both assisting taxpayers with their immediate problems and then in dealing with the underlying causes of those problems and causing systems improvement activities to take place. Also, by remaining and working within the organization, we can be more actively involved in the front end planning of new systems and procedures (such as the math error and ITIN processes mentioned earlier), thus reducing the possibility of adverse consequences to taxpayers.

On the issue of where the field PROs should report, I would point to some recent testimony by our PRO in the Indiana District, Rena Girinakis, on January 8th before the National Commission on Restructuring the IRS. In her testimony, she indicated that she receives the full support necessary from her District Director and from the functional division chiefs in accomplishing her duties as an advocate for taxpayers in the State of Indiana. To change her status by having her report directly to the Taxpayer Advocate in Washington D.C. could potentially jeopardize the current level of support and cooperation she receives by being a member of the director's immediate staff and a general peer of the division chiefs. I daresay you would get the same reaction from each of our field PROs. We have also received feedback from a number of our stakeholder groups supporting the current reporting alignment. The changes brought about by TBOR2 to strengthen the independence and linkage of field PROs to the Advocate's office should greatly assist in alleviating any other concerns in this area. If there are specific concerns, however, that are raised as a result of the current reporting structure, either now or in the future, I would suggest they be brought to my attention in order to ensure they are promptly addressed.

In closing, I want to stress the important role PRP plays in addressing the need of taxpayers who experience problems in their dealings with the IRS. We want them to know that their concerns are important to us and they need to be addressed as quickly as possible. Once we fix their problems, we want to be able to move forward and also fix the systems that created the problems in the first place. To meet this challenge we recognize we need a lot of assistance. We need the support of the organization in providing resources to address systems concerns. We need the support of our stakeholders to elevate problems to our attention and to assist in coming up with potential solutions to identified problems. And most importantly, we need the support of the American taxpayer to let us know how we are doing in serving as their advocate within the IRS.

TAXPAYER ADVOCATE'S ANNUAL REPORT TO CONGRESS FY 1996

FOREWORD

This is the first Taxpayer Advocate Report to the Congress as required by the recently enacted Taxpayer Bill of Rights (TBOR2). The mission of the Taxpayer Advocate is relatively simple and has two primary facets. First, we work with taxpayers to address their immediate problems or concerns and to provide appropriate relief. Second, we have a responsibility to address continuing systemic problems through analysis of their underlying causes and to recommend appropriate corrective actions. This element of our program is generally referred to as advocacy.

An ongoing role for Problem Resolution Program (PRP) and the Taxpayer Ombudsman, now the Taxpayer Advocate, for many years has been advocating for taxpayers through reviewing the impact of new programs and the source and causes of PRP casework. While advocacy can take many forms, the primary focus is to determine potential impacts on taxpayers, and then working with functional officials to take appropriate corrective actions. TBOR2 takes advocacy to a higher level by requiring the establishment of formal monitoring and reporting systems to track and follow-up on recommendations, as appropriate. I have also established a more formal process of conveying PRP recommendations to operational areas through the use of "Advocacy Memoranda" which require a response within 90 days. These memoranda are not intended to replace the ongoing advocacy activity that takes place at the staff level, but, in fact, will supplement and expand on those efforts.

Since TBOR2 was not enacted until the end of the tenth month of the fiscal year, we had a relatively short timeframe in which to gather input and develop this report. The focus of the report, therefore, has been placed on activity that had been documented by the end of the fiscal year and where responses had been requested from officials responsible for responding to the recommendations. Feedback on our current list of the most significant problems facing taxpayers in dealing with the IRS was gathered from our regional offices and responses were requested from appropriate operational officials. Other areas included in the report reflect ongoing problems with our attempts to locate and ensure we have that taxpayer's last known address as well as more recent efforts to reduce the potential for adverse impact of the Service's Revenue Protection Strategy on taxpayers.

In future reports, I plan to also include direct feedback from both taxpayers and the tax practitioner community on the most serious problems that taxpayers face in dealing with the IRS. I have already initiated a dialogue through the various Commissioner's liaison committees to start the process of gathering direct feedback from the following organizations on areas of importance to their constituents: the National Association of Tax Practitioners, the American Society of Certified Public Accountants, the National Association of Enrolled Agents, the National Association of Accountants, the American Bar Association, and the Tax Executive Institute. In addition, I have requested the assistance of our Strategic Planning Division in conducting a series of focus groups designed to gather feedback from individual taxpayers and small businesses on their concerns.

I recently provided members of the IRS Executive Committee with a copy of the Taxpayer Advocate's analysis of our FY 1996 casework activity. This report identified the top ten sources of PRP casework for each region, for our ten service centers, and for the nation. The Deputy Commissioner has asked each Regional Commissioner and the Service Center Executive Officer to work with me to identify critical areas of concern, and to establish teams to review the underlying causes for taxpayer problems in those areas and to recommend improvements to the operations of those systems. Each of the regional PRP staffs will participate in that process and will develop recommendations in other key program areas as well.

While this initial report represents, from my perspective, a good beginning, there is much to be done. The inclusion of direct input from taxpayers and the practitioner community along with enhanced analysis on the primary sources of PRP casework will form the basis for a more comprehensive systems improvement effort that will benefit both the taxpaying public and the Service.

LEE R. MONKS
Taxpayer Advocate

December 31, 1996

I. INTRODUCTION

This report by the Taxpayer Advocate to the House Ways and Means and Senate Finance Committees is mandated by section 101(a) of the Taxpayer Bill of Rights 2 (public law 104-168), enacted on July 30, 1996.

A. Program Overview

The newly created position of Taxpayer Advocate and the Office of the Taxpayer Advocate replace the former position of the Taxpayer Ombudsman and the Headquarters Problem Resolution Program staff, while enhancing the authority of the position and expanding the office's scope and responsibilities. This is the latest enhancement, including those mandated by Congress, to a longstanding, and, we believe, highly effective program of taxpayer advocacy and assistance.

The Problem Resolution Program (PRP) was founded in 1976 as part of the Taxpayer Service organization and was reorganized as a separate organizational component the following year. Initially, Problem Resolution Officer (PRO) positions were established only at the Service's district offices. In 1979, recognizing that many of the taxpayer problems that reached district PRP offices related to service center operations, the program was expanded and PROs were established in each of the service centers. In both districts and service centers, the PRO is a member of the Director's immediate staff.

In late 1979, the Taxpayer Ombudsman, an executive level position on the Commissioner's immediate staff, was created to head the PRP organization and to provide greater authority and visibility to PRP both inside and outside the IRS. In 1980, Regional Problem Resolution Officer positions were established on the immediate staffs of each Regional Commissioner to provide program oversight and assistance to the PROs in districts and service centers.

Since its inception, PRP has provided assistance to taxpayers who have been unable to get their problems resolved through normal channels. PRP assured the timely and effective resolution of more than 325,000 such cases during FY 1996. In 1988, the Omnibus Taxpayer Bill of Rights (TBOR) expanded PRP's ability to assist taxpayers by providing statutory authority under section 7811 of the Internal Revenue Code for the Taxpayer Advocate or his designees, the Problem Resolution Officers, to issue a Taxpayer Assistance Order (TAO). A TAO may be issued when necessary to relieve an imminent, significant hardship as a result of the manner in which the tax laws are being administered. The original statute authorized issuance of a TAO to require the release of property from levy or to cease or refrain from taking actions in certain situations. The following year, the Commissioner administratively expanded TAO authority to include relief of hardship in situations beyond those specified in the law. TBOR2 included this expanded authority and also allowed the Taxpayer Advocate or PRO to specify in a TAO a time period by which the ordered actions must be completed.

During FY 1996, more than 32,150 Applications for Taxpayer Assistance Order were processed. Of these, 76.5% were granted relief or appropriate assistance was otherwise provided. Only five cases required an enforced TAO, in which Problem Resolution Officers formally exerted their statutory authority to order relief for the taxpayer. In all five cases, the relief was provided timely.

Assistance could not be provided in 23.5 percent of the applications because:

- It was determined that relief was not appropriate (17.3%)
- The law prevented the Service from providing relief (3.6%)
- The ATAO did not meet significant hardship criteria (2.6%)

Relief may be determined to be inappropriate when the remedy the taxpayer is seeking is not justifiable; e.g., when a taxpayer requests abatement of an additional tax assessment but provides no supporting documentation to justify the abatement; or when granting a request for release of levy would jeopardize ultimate payment of the tax when the taxpayer has neglected or refused to make other arrangements with the Service to resolve their delinquency.

Many denials of relief due to the law preventing Service action were related to returning levy proceeds or releasing tax liens. The levy and lien provisions of TBOR2, which were supported by the Taxpayer Advocate, eliminated prior statutory constraints in these areas and should increase taxpayer relief actions during FY 1997.

Over the years, the program's focus has shifted from one of primarily identifying and resolving instances when taxpayers have not been able to solve tax problems through normal channels, or when they were suffering significant hardships. The focus now is to first assist the taxpayer with their immediate problem, and then de-

terminate the primary sources or underlying causes of those problems in order to work with IRS functional areas to initiate corrective actions and prevent the occurrence of similar problems in the future.

More significantly, TBOR2 enhanced the authority of the Taxpayer Advocate to ensure that IRS gives appropriate attention to the underlying causes of problems taxpayers encounter and that responsible IRS officials seriously consider and formally respond to recommendations by the Taxpayer Advocate to improve customer service and IRS responsiveness. TBOR2 requires the establishment of internal procedures, referred to as the "Commissioner's Reporting System," for ensuring a formal IRS response within three months to all Taxpayer Advocate recommendations, and requires that the Taxpayer Advocate report directly to Congress on the office's activities for the past year, including a summary of the actions taken to implement recommendations and to address the most serious problems faced by taxpayers.

TAO Program Activity
FY 1996

	Volume	Percentage
<i>Assistance Provided to Taxpayer:</i>		
TAO Resolved (Voluntarily)	14,862	46.2
PRP Case Initiated	2,114	6.6
Referred to Function for Resolution	4,052	12.6
Resolved by the PRO Without TAO	1,076	3.3
Relief Provided Before TAO Issued	2,514	7.8
Enforced TAO	5	*
Subtotal	24,623	76.5
<i>Other:</i>		
Relief Not Appropriate	5,546	17.3
Law Prevents Relief	1,147	3.6
No Action Required		
(did not meet criteria)	834	2.6
Subtotal	7,527	23.5
Total	32,150	100%

* Less than 0.1%

B. Sources of FY 1996 Casework

In January 1995 the Taxpayer Advocate initiated a change in the coding process for each case meeting PRP or ATAO criteria by type of issue (major issue code). The major issue code represents the issue or process that should be looked at for the purpose of determining the source or cause of various problems and then for initiating action to correct systems deficiencies, address unfair treatment, reduce program cycle time, or improving customer service.

In FY 1996 enhancements to the Problem Resolution Management Information System (PROMIS) resulted in creation of a single nationwide database of PRP/ATAO casework enabling collection and analysis of PRP's 55 major issue codes with far more ease and greater reliability than ever before.

The most recent analysis of closed PRP/ATAO cases provided:

- A picture of the vital few issues involved in a significant portion of PRP/ATAO casework throughout the IRS,

- An FY 1996 and FY 1995 comparison of major issue codes,
- A breakdown of major issue codes by IRS function with primary oversight,
- Major issue codes by centers, regions and districts, and for A/C (International)

The Taxpayer Advocate, at a recent meeting of the executive Committee, shared his staff's analysis of PRP casework for FY 1996, which included charts summarizing the top ten major issue codes, in terms of PRP casework volume, nationally, for each geographical region, and for the ten service centers. The charts that immediately follow this section (pages 7 and 8) provide a sample of the analysis being conducted by the Advocate's staff. Chart A reflects the top ten issues or processes that are the cause of PRP cases on a nationwide basis. Chart B depicts a distribution of all 55 PRP case codes for districts, as a whole, and for service centers. Charts C and D reflect the top ten issues for districts and service centers, respectively.

Our analysis indicated that the top ten major issue codes, by volume, for FY 1996, were, as follows:

1. Audit Reconsiderations
2. Refund Inquiries/Requests
3. Lost/Misapplied Payments
4. Processing Individual Returns
5. Processing Claims/Amended Returns
6. Penalties Other Than Federal Tax Deposit (FTD) Penalties
7. Federal Tax Deposit Penalties
8. Earned Income Credit (EIC) Issues
9. Revenue Protection Strategy (RPS)
10. Installment Agreements

Executives in the field and at the Headquarters Office are expected to provide support to the Taxpayer Advocate through encouragement of functional participation in the analysis and systems improvement efforts initiated by their local and regional PROs. Regional Commissioners have been asked to review the data for their respective organizations and to initiate appropriate actions. The Taxpayer Advocate has strongly encouraged the establishment of Regional Advocacy Councils to serve as the primary focal point for reviewing PRP problem data and initiating corrective actions. All four regions have established councils with cross-functional representation including PRP.

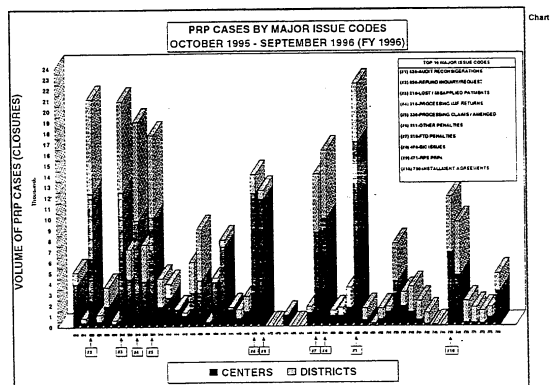
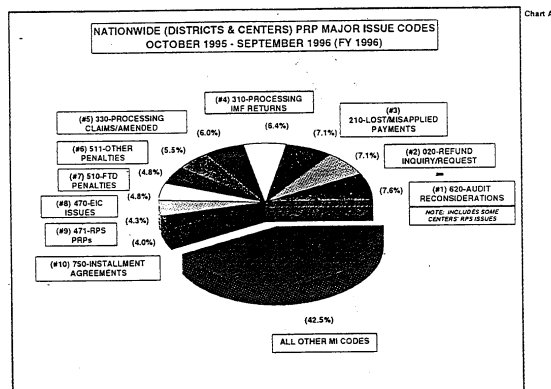
The Advocate's staff has analyzed the FY 1995 and FY 1996 major issue code data to identify and quantify the most frequent and most time consuming taxpayer problems. We will continue to analyze the major issue code data on a quarterly basis during FY 1997 to identify trends, patterns, aberrations, and possible anomalies. This analysis, which represents actual data from PRP casework, will form the basis for the majority of the advocacy activities undertaken by PRP. We also plan to supplement this data with input from taxpayer focus groups and from practitioner stakeholder groups in order to develop a comprehensive approach to dealing with the problems faced by taxpayers in dealing with the Service. This process will allow the Office of the Taxpayer Advocate to:

- Better understand the most frequent problems facing taxpayers,
- Rank or categorize problems according to their potential significance,
- Develop data research and analysis project plans to be assigned to selected regions for completion,
- Confirm and quantify the seriousness of each major issue code problem,
- Uncover underlying cause(s) for the most serious problem codes,
- Develop recommendations to prevent such problems or mitigate their impact on taxpayers.
- Convey recommendations in advocacy memoranda from the Taxpayer Advocate to responsible IRS officials,
- Track recommendations in the Commissioner's Reporting System, and
- Report on the of recommendations in the Taxpayer Advocate's annual report to Congress.

This, in turn, will assist responsible officials in developing appropriate improvement initiatives that will:

- Reduce taxpayer burden in transacting business with the IRS,
 - Reduce rework, including PRP/ATAO cases,
 - Improve IRS efficiency in delivering products and services, and
- Free up resources to be applied to more productive programs.

Four specific advocacy projects have already been initiated by our regional offices as a result of our data analysis. The four projects deal with taxpayer access to toll-free, collection related issues, earned income credit, and FTD penalties. Progress on these initiatives and recommendations will be reported on in my FY 1997 report.



II. PROGRAM SUPPORT

A. Taxpayer Assistance Orders (TAOs)

TBOR2 provides codified the Taxpayer Advocate's and PRO's authority to set time periods for completing actions required by and Taxpayer Assistance Order.

During FY 1996, five enforced TAOs were issued by Problem Resolution Officers; two in Western Region and three in Midstates Region. All five TAOs were honored timely by the receiving officials.

B. Selection and Evaluation of Problem Resolution Officers

In January 1996, the Commissioner issued a directive to all IRS Heads of Office that the Taxpayer Advocate or his designee, the Regional PRO, would participate in the selection and evaluation of all Problem Resolution Officers. TBOR2 subsequently codified that requirement.

Eight Problem Resolution Officers (PROs) were selected during FY 1996 with a Regional PRO participating and concurring in each selection; two PROs were selected at the Atlanta and Fresno Service Center, and an Assistant PRO was selected at the Brookhaven Service Center; two PROs were selected in the Brooklyn and Houston Districts, and three Associate PROs were selected in the Augusta, Portland, and Sacramento posts of duty. No Regional PROs were selected this year.

The Taxpayer Advocate provided input and gave concurrence to each Regional Commissioner on the performance evaluation of each Regional PRO. The Regional



During the past year, action was completed to consolidate quality review (QR) activity for PRP in two locations, San Francisco for all district offices and the Brookhaven Service Center for all service centers. The primary purpose of the consolidation was to achieve more consistency in the review of PRP casework and application of the PRP quality standards. In addition, I commissioned a national task force, made up of field PROs and members of my headquarters staff, to review concerns expressed by the field regarding the QR process. I approved thirteen recommendations made by the task force, designed to refocus quality from the customer's perspective which should result in both a better understanding of customer needs and improved quality results across the board. These changes were implemented during October 1996.

Since I assumed the position of Taxpayer Ombudsman in 1993, I have been extremely active in promoting the role of the Taxpayer Ombudsman (now Advocate) and Problem Resolution both internally and with external stakeholder groups. There was, at the time and still is, a need to ensure better understanding of the role we play within the organization. As a result of the changes created by the passage of TBOR2 that need is even greater.

For the Advocate to be effective, he or she must be allowed to operate as an independent voice for the taxpayer within the Service and to be able to make appropriate recommendations for improving IRS systems and processes that do not work

properly or have unintended negative consequences for taxpayers. This requires both an acceptance and understanding of the role by top-level management within the organization as well as support from the Commissioner and Deputy Commissioner. The support required has been there since the time I first assumed this position. The additional authorities granted by TBOR2 such as the Advocate's Report to the Congress and the requirement that functional management must respond promptly to recommendations made by the Advocate will ensure that greater attention is paid to this aspect of our program. The balance of the understanding required will be gained from continued education of executives, managers and employees.

Since the passage of TBOR2 and even prior to that time, I have made a number of speeches to various practitioner groups and at IRS sponsored symposiums for tax preparers to discuss the changes and enhancements to PRP and my position as a result of the legislation. I have also indicated a desire to solicit direct feedback from these groups as part of the process to identify the most significant problems affecting taxpayers in their dealings with the IRS. Response has been very favorable and there have been numerous inquiries regarding specific timeframes for implementation of various aspects of the bill. Surprisingly, I also learned that there are still a number of tax preparers that were relatively uninformed regarding how PRP works and that it is available to them as a resource in dealing with problem areas with the IRS.

The last area relating to communications deals with direct feedback from taxpayers. PRP had conducted a series of focus groups in late 1993 on service offered by PRP. The information obtained was extremely useful in modifying our program practices and quality review program focus, but did not offer any significant insight to problems taxpayers were experiencing with the IRS as a whole. In 1997, I have initiated a series of focus groups, in conjunction with our Strategic Planning Division, to gather data from both individual and small business taxpayers on the types of problems they encounter in their dealing with the IRS. This information will be included in my next report to the Congress and will also assist in developing the list of the most significant problems as well as appropriate recommendations for systems improvements. Obviously, communications and outreach will continue as a high priority for PRP in 1997.

E. Reorganization of PRP

For the past two years the IRS has been undergoing a reorganization of its regional and district offices. During that time the Service has consolidated field operations from seven to four regions and from 63 to 33 districts. At an early point in the discussions regarding district operations, Commissioner Richardson made the decision to retain PRO positions in all 63 former district offices. This ensured that each former district location would maintain a local PRP contact, now designated as an Associate PRO, for liaison with taxpayers, local congressional offices and the practitioner community.

While PRP staffing has remained fairly stable for the past few years, there have been some shift of resources to accommodate needed transfers of workload. My office has developed a staffing model based on workload needs to ensure each district has been allocated an appropriate level of resources commensurate with local workload demands.

III. TAXPAYER ADVOCACY

A. Initiatives of the Taxpayer Advocate

Since the inception of PRP, the Taxpayer Advocate's staff and field PROs have been involved in identifying the underlying causes of taxpayer problems and in recommending solutions to improve taxpayer service and IRS responsiveness. Because those recommendations were made in a variety of ways and came in through different levels of the organization, they were handled inconsistently at times and often did not receive the support necessary to ensure implementation.

One of the early actions that I took upon assuming this position was to establish a more formal approach towards handling improvement recommendations received from the field and then in tracking completion of approved actions. Since that time, we have also developed a more comprehensive management information system and have used data derived from that system to pinpoint critical areas of concern. As a result, by the time TBOR 2 was enacted much of the structure and internal systems to track and report on improvement initiatives sponsored by the Advocate's office were already in place. We have established a formal system of Advocacy Memoranda, which requires a response to the Taxpayer Advocate within 90 days. We also

have a tracking system in place to ensure approved actions are being addressed by the appropriate officials until they are resolved or discontinued.

During the last two months of FY 1996, we issued two Advocacy Memoranda, to the appropriate responsible official, which contained recommendations relating to two advocacy projects undertaken by the Advocate's staff: the first contained recommendations related to the Revenue Protection Strategy (RPS) that resulted from an FY 1996 cross-functional effort to improve processes for the 1997 individual income tax filing season. The second memorandum followed up on the implementation of recommendations that had resulted from a 1994 cross-functional effort, the Last Known Address (LKA) Study, which I chaired, to improve the way the Service determines and maintains taxpayers' current addresses.

In addition to the aforementioned advocacy projects, my staff was involved in two other initiatives worthy of mention in this report and we are also supporting a project originally initiated by the San Francisco PRP staff and co-sponsored by the Western Region. The first two projects deal with the establishment of a servicewide customer feedback system and a study on issues affecting divorced or separated spouses, now more commonly referred to as the joint return study and the Western Region study focuses on audit reconsideration issues, which represents the number one source of PRP casework (see Chart A.).

A brief synopsis of each of the five projects follows.

1. REVENUE PROTECTION STRATEGY

The Service's Revenue Protection Strategy (RPS) is an approach, begun during FY 1995, to take a more aggressive stance to identify and prevent fraud and abuse of the Earned Income Tax Credit. Although the strategy has evolved and been refined since its initial implementation, RPS' basic feature involved the delay in issuance of certain EIC-related refunds and the review and screening of questionable EIC claims to determine whether to disallow the claim through the statutory notice of deficiency process or to initiate a criminal investigation. During the 1995 filing season, field PRP offices received 25,257 Applications for Taxpayer Assistance Order (ATAO) and 895 regular PRP cases related to RPS refund freezes. During FY 1995, the Office of the Taxpayer Advocate worked with field PRP offices and members of Headquarters operational staffs to monitor the RPS processes and case inventories and to identify opportunities for improving processes and refining screening methods. During the 1996 filing season, only 835 RPS related ATAOs were received, a significant decrease in taxpayer hardship claims resulting from improved screening and selection techniques which required far fewer delays in the issuance of refunds. In 1996, although regular RPS PRP case receipts increased to 4579, most of those cases were holdover problems from the prior year, i.e., 1995, refund freeze was not yet resolved because of processing problems.

During the past fiscal year, the Taxpayer Advocate's staff partnered with staff members representing the Assistant Commissioner (Examination), the Office of Refund Fraud, and the Chief Taxpayer Service to review RPS processes in selected districts and service centers. Following that review, recommendations were made in an Advocacy Memorandum to the Chief Taxpayer Service. We acknowledged in our Advocacy Memorandum that legislation pending at the time it was issued to give the IRS authority to adjust EIC amounts and other return items without requiring issuance of a statutory notice of deficiency might impact the recommendations being made.

During the 1997 filing period my staff will work closely with the staff of the Service Center Executive Officer and other functional areas to monitor the RPS process. This is critical in light of new legislation providing the IRS with math error authority on RPS cases and new procedures for handling taxpayer identification numbers for those individuals unable to obtain Social Security numbers.

The following is a brief summary of our RPS recommendations. The recommendations have been numbered in this report to assist the reader:

1. Revise the wording on the acknowledgment and interim letters generated through Examination function management information system.
2. Revise certain RPS taxpayer notices.
3. Establish indicators on RPS accounts to show when correspondence or telephone inquiries are received from taxpayers.
4. Establish an indicator to show when additional information is needed from the taxpayer.
5. Establish separate account indicators to show when an RPS case is closed because the taxpayer agreed to the proposed adjustment or when the Service accepted the return as filed.
6. Require the consistent use of indicators among all IRS offices.
7. Indicate the date acknowledgment and interim letters were sent on RPS cases.

8. Issue clarifying instructions for the handling of cases where multiple taxpayers live in the same household.

9. Provide separate indicators for closed cases where no response was received and for closed cases where a response was received but the information provided was not enough to substantiate the taxpayer's eligibility.

10. Provide separate indicators for open cases where no response was received and for open closed cases where a response was received but the information provided was not enough to substantiate the taxpayer's eligibility.

11. Revise time frames for initiating internal referrals and PRP cases following taxpayer contacts to coincide more closely with processing times related to the acknowledgment and interim letters.

12. Revise account research and indicator input procedures for taxpayer calls routed outside a center's normal servicing area.

13. Revise indicator input procedures when internal referrals or PRP cases are initiated at telephone sites.

A more detailed explanation of our recommendations, responses by the Chief Taxpayer Service and the Taxpayer Advocate are included in Appendix A.

2. LAST KNOWN ADDRESS (LKA) STUDY

During FY 1994, the Taxpayer Advocate sponsored a cross-functional analysis of the IRS's efforts to improve the way it updates and maintains taxpayer address records. Twenty-three recommendations (ten short-term and thirteen long-term ones) were made as a result of that study and were approved by the Deputy Commissioner in August 1994.

In a December 1994 report, entitled TAX ADMINISTRATION, Changes Needed to Reduce Volume and Improve Processing of Undeliverable Mail, the General Accounting Office (GAO) reached the following conclusion:

Although it is unlikely that the problem of undeliverable mail can be totally eliminated, IRS needs to give undeliverable mail more attention because it adversely affects operations and can cause undue burden on taxpayers. Although previous efforts to deal with this mail were primarily limited to IRS' service center Collection functions, new efforts are expected to have Service-wide consequences because IRS agreed in August 1994 to implement recommendations of the Taxpayer Advocate's study. The implementation of those recommendations should have significant impact on reducing IRS' undeliverable mail.

Since the December 1994 GAO report, twelve of the twenty-three approved recommendations were implemented or were closed (without being implemented). Actions implemented by the Service involved simplification and standardization of address instructions to taxpayers, the implementation of new guidelines for accepting oral statements during compliance contacts, clarification of procedures dealing with divorced and separated taxpayers, and expanded training for employees on change of address input procedures.

Overall we believe progress has been made in this problem area. At this time we believe most of the remaining issues can be closed with the exception of a few recommendations which are still in progress.

One of those projects involves a test funded by the Taxpayer Advocate's Office and conducted by the Indiana District Problem Resolution Office. The test provides for the direct distribution of the IRS change of address form within the U.S. Postal Service's Change of Address confirmation letter and Welcome Kit. On December 12, 1996, I issued an Advocacy Memorandum to the Chief Taxpayer Service recommending that he consider implementation of this proposal nationwide. My office is tracking that recommendation separately in the Commissioner's Reporting System, and I will report on our progress in my FY 1997 report to Congress.

The second issue provides for the development of a legislative proposal to define last known address. After review by Chief Counsel, they agreed to establish a project to define last known address by regulation in lieu of the legislative recommendation. At this time we cannot move further until a business case is completed for the time frames set forth for processing returns and notifications (i.e., the numbers of days necessary to process address information from returns and notifications). This item will remain open pending this response.

A complete listing of the LKA Study recommendations and discussion points is contained in Appendix C.

3. CUSTOMER FEEDBACK SYSTEM

Following passage of Taxpayer Bill of Rights 2, which requires that the IRS report on all complaints received related to employee misconduct, the Taxpayer Advocate and Chief Management and Administration were assigned responsibility for the im-

plementation of a Customer Feedback System. The following recommendations were made to the Commissioner, Deputy Commissioner, and IRS Executive Committee:

1. The Deputy Commissioner should have the primary responsibility for ensuring that appropriate actions are taken to implement the system and to initiate actions based on information and data provided by the system.

2. The Taxpayer Advocate should be the individual with primary responsibility for administering the system and for providing data and appropriate recommendations to the members of the IRS Executive Committee.

3. The Regional Commissioners and Chief Officers should be responsible for taking appropriate corrective actions, based on the data and recommendations received.

4. Data on customer feedback should be maintained on the Problem Resolution Office Management Information System (PROMIS) which will require some modifications to handle data input and storage requirements.

All recommendations have been agreed to and the system is now operational. Initially, data on both complaints and compliments from taxpayers is being gathered manually and will be retained by each office. Following the required modifications to PROMIS, which are expected to be completed in January 1997, all data will be input and the first report made available to the Executive Committee. In addition, coordinators have been established within each office to ensure data is properly input and maintained. The first report to the Congress on customer feedback is due June 30, 1997.

4. JOINT RETURN STUDY

During a TBOR2 hearing in April 1994, the Taxpayer Ombudsman indicated that a study was being undertaken to review the problems being experienced by divorced and separated taxpayers. This was in response to comments made by the Chairman of the IRS Oversight Subcommittee, in reference to the increasing numbers of complaints being received by her office on this issue.

The task force, which was co-sponsored by the Taxpayer Ombudsman and the Southwest (now Midstates) Region, completed their efforts in late 1995 and provided the results of their study to a new task force formed as a result of pending TBOR2 legislation requiring both the IRS and the GAO to conduct a study on the issue of joint and several liability. The Taxpayer Advocate and Chief Taxpayer Services are serving as cosponsors of the new study. The IRS study group report, which is due to be issued January 30, 1997, will also include a review of innocent spouse provisions.

5. AUDIT RECONSIDERATION PROJECT

In conjunction with our efforts to initiate improvements to systems which are creating problems for taxpayers, the Western Region recently completed an advocacy project on audit reconsiderations which, according to data on FY 1996 casework, is the single largest source of cases received by PRP.

The project, which is being reviewed by my staff and the Assistant Commissioner (Examination) has great potential for reducing both the timeframes for handling audit reconsiderations as well as the number of cases that need to be referred and subsequently handled in PRP. A number of recommendations have been forwarded to the Chief Compliance Officer for review. Results of this initiative will be reported on in the FY 1997 Taxpayer Advocate's report.

B. Legislative Recommendations

While I have no specific independent legislation recommendations to make in this year's report due to time constraints, there are several legislative proposals being circulated within the IRS at the time of this report's publication which I endorse for further study and consideration.

1. SIMPLIFY THE COMPUTATION AND ASSESSMENT OF THE ESTIMATED TAX PENALTY

The current rules regarding penalty for underpayment of estimated tax under IRC 6654 are extraordinarily complex for taxpayers and very difficult for the IRS to administer. For example, in FY 1995 5,619,851 estimated tax penalties were imposed on individuals. The exceptions to this penalty, for which many taxpayers qualify, are difficult to compute and are the source of additional frustration for taxpayers. Especially complex is the "annualized method" of determining if an exception to the penalty applies. Taxpayers are required to complete Form 2210 in order to show that they qualify for one of the exceptions that can lower or eliminate the penalty. Form 2210 is among the most complex and difficult of the tax forms.

The fundamental problem, however, is not with the form. The problem lies in the complexity of the law. The current list of suggested legislative proposals being circulated by Legislative Affairs Division contains two separate proposals in this area.

I support further study of either concept since this is a difficult area for taxpayers to understand and is a continuing source of problems in PRP. Another possibility worthy of consideration is that the penalty be retained for only those taxpayers who continually underpay estimated tax, giving first-time "offenders" an automatic waiver.

2. ALLOW AN EXCEPTION TO THE STATUTE OF LIMITATIONS ON REFUNDS SO THAT UNTIMELY REQUESTED OVERPAYMENTS CAN BE CREDITED TO OTHER YEARS, IN THE DISCRETION OF THE IRS IN EXTENUATING CIRCUMSTANCES

The IRS is often put in the difficult position of explaining to a taxpayer that, while the IRS is seeking tax due owed from four or more years ago, it cannot refund amounts that would otherwise legitimately be due from those years. Taxpayers who file delinquent returns for multiple years often have a combination of balance due and overpayment returns. Many Service employees can relate instances of actions taken against taxpayers who owed taxes for (say) 1990 and 1992 but would have had a refund (sometimes larger than the combined balance due) for 1991.

Taxpayers feel it is unfair that IRS will actively pursue a balance due while, in their view, ignoring the tax that would have been refunded from 1991. One proposal has been suggested to allow an exception to the statute of limitations on refunds when these types of extenuating circumstances exist. This proposal would allow the offset of overpayments to other tax liabilities, but not allow the refund of money for years beyond the current statute of limitations. Obviously, this is an area that needs to be reviewed carefully since we do not want to be in a position of rewarding non-filers.

3. ELIMINATE FAILURE TO PAY PENALTY AND INCREASE INTEREST RATE ON UNDERPAYMENT TO MARKET RATE

The current failure to pay penalty and the related application of interest on underpayment is extremely complex and appears to do little to encourage taxpayers to pay timely. Charging taxpayers both a failure to pay penalty and interest on the underpayment is, by itself, unnecessarily complex. Adding to this complexity are the rules governing the graduated penalty rates and the application of interest only after the deficiency assessment is made. I could support a study of a change in law that would eliminate the failure to pay penalty and increase the interest rate on underpayment to a level that would reflect the true time value of funds.

C. The Most Serious Problems Facing Taxpayers

The Taxpayer Bill of Rights 2 legislation has provided the Taxpayer Advocate's office with an important tool, through the Advocate's report to Congress, to deal more effectively in the identification and resolution of continuing problems that taxpayers are facing with the IRS. In our role as an advocate for taxpayers, we must not only identify the primary sources of problems, we must engage the organization in appropriate corrective actions. In developing this list of the twenty most serious problems facing taxpayers in their dealings with the IRS, that thought was foremost in our minds.

An initial source for our listing was the day-to-day dialogue we have with taxpayers and tax preparers on their most serious problems with our systems. Although much of this information is derived from informal discussion, many of the issues are supported by data from the PRP management information system (PROMIS). For example, taxpayers and tax preparers, alike, report a significant number of problems with IRS penalty administration. As indicated on Chart A (page 7) Other Penalties and FTD Penalties rank sixth and seventh, respectively, in the top ten listing for the source of PRP casework nationally. On the other hand, problems associated with taxpayer access to IRS toll-free service are reported as a source of continuing frustration for both taxpayers and preparers but would not normally be identified as a source for PRP casework.

Following development of the list, my office requested feedback from the Regional Commissioners and their staffs as follows:

- what progress had been made in their regions in addressing the issues outlined;
- the extent of the problem and its relative order of importance; and
- whether any other issues had emerged that warranted inclusion on the list.

As a result of this interaction, my staff developed the final listing of problems that appears in this report. As mentioned in the foreword of this report, plans for 1997 include more direct interaction with taxpayers and other key stakeholders, through focus groups and liaison activities. This will ensure a more comprehensive analysis of the issues and will be integrated with the data derived from the PROMIS system to serve as the primary source for continuing efforts to improve the performance of IRS systems affecting taxpayers.

The listing of the twenty most serious problems facing taxpayers in their dealings with the IRS as well as the Services' progress to date in addressing these issues and our assessment of what remains to be accomplished is as follows:

1. COMPLEXITY OF THE TAX LAW

Responsible IRS Official: Various

Complexity of the tax law is the single most burdensome aspect of compliance for most taxpayers and is an underlying cause of many, if not all, of the most serious problems encountered by taxpayers. While a number of IRS officials have varying degrees of responsibility for reducing the burden faced by taxpayers, and are taking appropriate steps, much of the impetus for complexity is driven by external forces and continuing changes to the tax law.

While complexity of the tax laws has been identified as the single most burdensome aspect of compliance for taxpayers, it also serves, to a great degree, as a contributing factor for many of the other issues addressed in this report. Obviously, complexity in and of itself, is not intentional but rather, is the cumulative effect of numerous tax law changes, each of which is enacted for a presumably desirable public policy purpose. The Service is deeply concerned with taxpayer burden and is strongly committed to reducing the burden associated with complying with the tax laws, whether it is dealing with clarification or simplification of notices, publications and instructions or of the tax laws themselves.

My office has focused on several issues during the past two years in an efforts to deal with reducing complexity and burden associated with the tax laws. For example, our efforts on a Joint Return study, co-sponsored by the Mid-States Region, were provided to the national IRS task force looking at the same issue. We intend to engage the field more fully in these efforts during 1997.

One proposal that I previously made in testimony before the Sub-Committee for IRS Oversight at a hearing on taxpayer burden dealt with a methodology to "score" all proposed tax legislation for taxpayer burden, much the same as is now done for revenue. While an acceptable methodology would have to be developed to be used in scoring and this would not necessarily assure decreases in burden, this would ensure that burden is considered as an integral part of the process.

2. INABILITY TO READILY ACCESS IRS BY TELEPHONE

Responsible IRS Official: Chief Taxpayer Service

Taxpayers consistently identify the inability to reach IRS at its toll-free telephone number as a major problem. The IRS achieved a level of access during FY 1996 of 46 percent, which reflects a decline from the 50 percent level achieved during FY 1994.

In FY 1994, the IRS was funded to answer 34.6 million calls while actual demand was 66.8 million. In FY 1995, 33.6 million calls were funded, while actual demand rose to 101 million calls. This resulted in a 33 percent level of access for callers. (Demand in FY 1995 was unusually high due to actions taken as part of the IRS Revenue Protection Strategy initiated that year, which resulted in many refunds being delayed.) For FY 1996, 38.3 million calls were funded and actual demand dropped to 97.5 million, resulting in a 46 percent level of access. Despite the increased number of calls answered, the high level of demand each year still exceeds the resources available to answer these calls.

To maximize use of available resources and improve the level of access to taxpayers, the IRS established an oversight board in November 1995 to review, administer, and implement best practices for toll-free sites. The board completed a top-to-bottom review of toll-free equipment and implemented best practices nationwide.

The IRS is also improving the clarity of its notices to reduce the need for taxpayers to contact us. In addition, tax forms and publications are available on the Internet 24 hours a day and on CD-ROM and in many public libraries. The IRS Internet Home Page also provides answers to frequently asked questions and other tax information 24 hours a day. This past year, many new services including Tax Topics, scannable Publications, and Tax Tables were put on-line.

I strongly endorse the efforts being taken to improve access. In light of current and future budget realities, we see efforts to reduce demand while improving overall access as critical initiatives and are working with the Customer Service organization in the Midstates Region to explore further ways to reduce avoidable demand. The Service is also committing additional resources to toll-free service this year.

3. LACK OF CLARITY AND INAPPROPRIATE TONE OF IRS COMMUNICATIONS WITH TAXPAYERS

Responsible IRS Official: Chief Taxpayer Service

IRS notices and correspondence are not always clear and sometimes contain jargon that is not understood by the average taxpayer. Frequently, notices do not provide an adequate explanation of the reason for the communication. In addition, IRS communications to taxpayers take the same tone and approach toward taxpayers with spotless compliance histories as toward those with long histories of intentional noncompliance.

In response to concerns such as these, the IRS has begun a complete overhaul of its notice system. Efforts are focused in two primary areas: redesigning current notices and reengineering the entire notice process.

- The Notice Redesign project will improve the quality, content and format of IRS notices so that taxpayers can understand and know how to respond to a notice without having to call the IRS for an explanation.

- The Notice Reengineering project is part of a broader Tax Settlement Reengineering effort aimed at eliminating duplicate or unnecessary correspondence with taxpayers, targeting the notice mailouts to the desired audiences, improving the timing of the notice issuances, and exploring alternative methods of conveying information to taxpayers.

My staff is actively involved in notice review and redesign and will continue to monitor progress in this area. We see this as a major step in reducing burden for taxpayers. It also provides the potential to reduce telephone demand if IRS, through analysis of incoming notice calls, can improve notices so taxpayers do not need to call IRS after they receive them.

4. ERRONEOUS IRS NOTICES

Responsible IRS Official: Chief Taxpayer Service

Information reported to the IRS by external sources on wages, interest, and other income is not always accurate and often results in IRS communications with taxpayers which are unnecessary, inaccurate, and misunderstood.

The majority of payer reporting problems that impact the notices in the Underreporter Program (URP) most often occur in business mergers, when both merging entities report the income. Duplicate reporting also occurs for some businesses when both the payer and its transmitter file the same data. Other problems include late filing and/or the non-filing of correction documents.

National procedures for identifying and reporting incorrect payer information are used to create a file, which is a compilation of payer information that has been verified as "erroneously filed or processed." The information is updated weekly so that erroneous information returns can be identified and corrected without having to contact taxpayers. For example, during the processing of tax year 1992 cases (worked primarily in calendar year 1994, and the last year for which complete data is available) 20,589 cases were closed without having to contact taxpayers.

The IRS is revising the regulations that tell payers how to report business mergers, to clarify which company is responsible. The IRS office responsible for processing magnetic media documents conducts annual workshops which teach payers how to prevent problems and how to properly report each of the various types of income that is reportable on information returns. Through these workshops, the IRS has reduced the number of large volume filers who have problems. However, as the number of small filers has increased, the number of small filers who have errors in reporting payer information returns has grown. The IRS has begun targeting these small businesses with its workshops in an attempt to reduce errors from this community.

In addition to the workshops, a telephone Hotline is operated for payers to get information on how to file. Also, the IRS publishes the filing requirements each tax year for payers to follow and conducts public forums for payers to discuss any potential changes to the reporting forms (e.g., W-2, 1099).

We strongly endorse the actions being taken and will continue to monitor progress in this area. This is also an area in which we will attempt to get more direct input on the specific nature of the problems being experienced from payors and taxpayers in order to more specifically target corrective actions.

5. DIFFICULTY IN UNDERSTANDING FEDERAL TAX DEPOSIT REQUIREMENTS

Responsible IRS Official: Chief Counsel (primary)

Chief Compliance Officer (secondary)

Federal Tax Deposit rules and related penalties are extremely complex, resulting in frustration for taxpayers who attempt to comply with the requirements, and ex-

penditure of significant resources by IRS in maintaining, correcting, and adjusting employment tax accounts.

During fiscal year 1993 the IRS issued new Federal tax deposit regulations intended to simplify the system previously in place. These regulations were effective with respect to deposits of Federal employment taxes (including railroad retirement taxes) attributable to payments made after December 31, 1992, and affect approximately six million employers who pay employment taxes. The new regulations were designed to simplify the employment tax deposit system. They are easier to understand and provide employers with up-front certainty in determining their deposit obligations. The new system was designed to reduce burden and compliance cost for employers, particularly small businesses. In addition, we are currently moving toward further simplification by phasing in an electronic funds transfer (EFT) deposit system, and giving consideration to raising the quarterly threshold requiring deposits.

The IRS is conducting a comprehensive analysis of the Business Master File for employers, who had a Form 941 filing requirement for 1995, to determine the effectiveness of the change in the regulations, noted above, in reducing their compliance burden. A second objective of the study is to identify and address continuing difficulties employers experience in complying with the deposit requirements. Participants from several IRS offices will conduct the study, as well as the Northeast Region PRP office. The Commissioner's Advisory Group is the external participant in this study. The results of the study will be available in the spring of 1997.

To specifically address penalty concerns, the study group, in conjunction with the IRS St. Louis office, conducted a review of closed PRP cases that addressed federal tax deposit penalties. The IRS will continue to emphasize the one-stop-service procedure which is part of CEP and which is designed to limit the number of problems with tax deposits.

The IRS has also taken steps to help taxpayers cope with the complexity of federal tax deposit rules. One example was the combination of employment tax information from three separate publications (Pub 493, Alternative Tax Withholding Methods and Tables, Pub 937, Employment Taxes, and Pub 952, Sick Pay Reporting) into one publication, Pub 15-A, Employer's Supplemental Tax Guide. In addition, the threshold requirement for making federal deposits through electronic filing was revised. An Electronic Federal Tax Payment System (EFTPS) help-line was set up to assist taxpayers in meeting their filing requirements.

Problems experienced by specific groups of taxpayers were also addressed. For example, unemployment compensation recipients were unable to withhold federal income taxes. As a result, changes in the law were recommended to allow unemployment recipients to elect to have their state withhold federal income tax at a 15 percent rate. Also, the common-law rules pertaining to employee versus independent contractor were difficult to apply. The IRS substantially revised the common-law rules pertaining to employee versus independent contractor. This was to make the rules simpler and make the criteria for determining whether a worker is an employee or independent contractor more concise.

We fully endorse the actions being taken by the Service in this area. Although taxpayers may find the Federal Tax Deposit rules somewhat complex, a number of changes have been made to simplify the process. In addition, the FTD system represents the major source of government funds, therefore expeditious receipt of FTD payments by the government is vital. Another improvement more specifically targeting small business and supported by my office was an agreement to notify taxpayers in advance when the frequency of tax deposits change.

6. COMPLIANCE BURDEN ON SMALL BUSINESSES

Responsible IRS Official: Chief Compliance Officer (primary)

Small Business Liaison (secondary)

Small businesses are heavily burdened in dealing with tax related issues, including tax withholding and reporting requirements, and differing filing and definitional requirements for various types of tax (e.g., FICA, FUTA, and income taxes).

Education is part of the answer to alleviating the burden tax law imposes on small business taxpayers and the Service has many programs geared to providing this education. Because, it has always been difficult to reach all stakeholders, further efforts need to be explored to identify ways to ensure taxpayers have the knowledge they need in order to comply with the tax regulations.

Small Business Tax Education Program (STEP) is a cooperative effort with local organizations to provide tax education to small business owners. The overriding theme is "making taxes less taxing." This up-front tax education reduced the burden of the small business owners' tax obligations. Approximately 2,200 educational institutions (mostly colleges and universities) participated in STEP.

Small business owners and self-employed persons can attend Small Business Workshops (SBW) to learn about their Federal tax rights and responsibilities. These workshops provide an overview of the role of the Internal Revenue Service and the kinds of tax information available to businesses.

The IRS has many recommendations and initiatives in process to reduce the burden of small businesses in complying with the law:

- recommending the elimination or modification of the Look-Back Provision in IRC 460. This is a burden on taxpayers and IRS, produces nominal income or refunds, and is costly to administer.
- 1995–96 Commissioner’s Advisory Group recommended (with the support of the Service) that the FIFO rules for applying deposits against liabilities be changed for monthly depositors and that the de minimus threshold for requiring deposits be increased from \$500 to \$1000;
- considering a Deposit Education Program (DEP) initiative to provide the one-time retroactive removal of FTD penalties for certain small businesses who participate in a training program;
- to comply with the mandate of TBOR 2 (Act section 304), the FTD timely and correctly deposit penalties will be waived for new employers; issuance of a notice to these taxpayers explaining what they need to do to comply in the future is under consideration;
- IRS will incorporate information in the Electronic Federal Tax Payment System (EFTPS) information package on the option of businesses making federal tax deposits more frequently than that provided by the regulations;
- developed a new publication, Publication 583, *Starting a Business and Keeping Records*, in an effort to assist small business people who are starting a business by providing basic federal tax information for small businesses;
- developed a video and written materials to assist employers and employees in meeting their tip income reporting requirements; the written material was produced in English and Spanish, and a Chinese version is under development.

The Service recognizes that small business owners cannot be expected to comply fully with the tax laws unless they first understand their tax obligations and then have the tools they need to satisfy their obligations quickly and cost-effectively. For that reason, approximately two and a half years ago, the Commissioner made a commitment that the Service would do what it could to assist small businesses.

- **Regulatory Reform**—The IRS started by going directly to small business owners to listen to them. To participate in this regulatory forum, the IRS established a new IRS Small Business Affairs Office (SBAO) in March 1994. SBAO serves as the national contact for small business taxpayers or their representatives to express concerns regarding issues of tax administration.
- **Small Business Town Meetings and White House Conference on Small Business Meetings**—The IRS continued to seek opportunities for listening to the small business community. The Commissioner held seven small business town meetings throughout the nation during the spring and summer of 1995. The IRS also actively participated in the White House Conference on Small Business’s (WHCSB) state, regional and national meetings in 1994 and 1995.
- **Tax Information and Assistance**—During the summer of 1995, the IRS joined with the Department of Commerce and fourteen other government agencies to establish the U.S. Business Advisor—a one-stop Internet shop that directs small business owners to government information available on-line, including the electronic IRS Homepage. For small business owners seeking specialized tax assistance, the IRS partnered in the development of the first U.S. General Store for Small Business opened in Houston, Texas in July 1995. This store, which fourteen other federal agencies support, provides one-stop government service to businesses, ranging from assistance in complying with regulations, to solving tax problems, and obtaining loans. The IRS continues to work with other federal agencies.

The recommendation alluded to in the complexity section seems particularly relevant for small businesses, i.e., if burden were calculated at the time of enactment of tax legislation, small business concerns would be specifically considered at that time. We believe that business requirements are frequently enacted with a focus on the capabilities of medium and large businesses when in fact most businesses affected are very small, and are therefore faced with additional costs and complexity in complying. My office will continue to work with both operations and the Office of Small Business Liaison, as well as with the various Commissioners liaison groups to stay on top of and deal promptly with the concerns of small businesses.

7. PROBLEMS IN THE ADMINISTRATION OF PENALTIES

Responsible IRS Official: Chief Compliance Officer

A large number of penalties are imposed and then abated each year, causing an unnecessary burden on both taxpayers and IRS.

The Chief Compliance Officer has indicated that it may be premature to conclude that, because a large number of penalties are abated each year, an unnecessary burden is being placed on taxpayers and the IRS. Generally, civil penalty statutes require that penalties be imposed (for certain infractions of the law) unless the taxpayer establishes "reasonable cause." In all such instances taxpayers must be contacted, in some manner, to be provided an opportunity to establish reasonable cause.

The vast majority of civil penalties are computer assessed. Computer generated penalties, such as the failure to file and failure to deposit penalties, are assessed when returns are processed and notices are generated affording the taxpayer the opportunity to request abatement for reasonable cause. In the absence of a reasonable cause determination, the penalty stands. In the case of information reporting penalties, a "proposed" assessment notice is sent, affording taxpayers an opportunity to establish reasonable cause prior to the penalty assessment. In either instance, the Service would be remiss if it did not afford the taxpayer the opportunity to respond to the penalty assessment. If this opportunity results in the taxpayers establishing reasonable cause and having the penalty removed, the Service has reduced at least a portion of taxpayers' burden attributable to cost.

It is acknowledged that the Service can improve its processing of penalties to minimize the frequency of erroneous assessments (resulting in additional abatements) due to such things as misapplied payments and other systemic errors. Steps are being taken to improve our penalty management information system and to better determine the reason penalties are removed. In 1993 IRS established "penalty reason codes" which break down the reasons, to categories, such as reasonable cause, taxpayer error, Service error, or Appeals settlement. These codes were operational in service center processing in 1993 and in examination processing in 1994. In 1996, these penalty reason codes were refined to provide more meaningful data.

In 1993 the Service also introduced a cross-functional Penalty Internal Revenue Manual (PIRM) to be used by all Service employees who handle penalties. The objective of this manual was to improve the consistency with which penalties are addressed. This PIRM is currently available on the Penalty Bulletin Board and on the CARTS system.

My office believes the data derived from the PROMIS system, which indicates penalties are a continuing source of taxpayer and PRP problems, clearly establishes the need for more action in this area. We have sponsored an advocacy project in the Northeast Region which will be looking at Federal Tax Deposit penalties to avoid or minimize instances of non-productive imposition. We are also working with the Office of Small Business Liaison to initiate a more comprehensive review of penalty policies and procedures and hope to report more in this area in our next report.

8. LACK OF UNDERSTANDING OF TAXPAYERS' CONCERNS

Responsible IRS Official: Chief Management and Administration

IRS does not fully understand the concerns taxpayers have with tax administration and therefore cannot adequately address them.

The IRS recognizes the importance of identifying taxpayer concerns and creating strategies to improve our services. To date, our efforts to explore taxpayer concerns have been focused on opinion research; since 1989, we have devoted considerable resources to taxpayer opinion data collection. Although exploring taxpayer opinions has led to improved services, we recognize a need to examine concerns through means other than opinions. We are in the process of expanding our efforts to include the systematic capturing of taxpayer complaints. The Taxpayer Advocate's Office is currently developing a system to track complaints and actions taken to respond to them. We believe that the analysis of this data will lead to a better understanding of taxpayer concerns and will allow us to better meet the needs of our customer.

Even before Executive Order 12862, requiring federal agencies to survey customers about satisfaction levels with services, was enacted in September 1993 the IRS was taking steps to systematically survey taxpayer opinions. Since 1992, the Service has conducted five customer satisfaction surveys with individual taxpayers and three with small business taxpayers. We have also trained employees to moderate structured focus groups and have sponsored or conducted more than forty public opinion and customer satisfaction surveys. The Value Tracking Core Business System was created to centralize the collection of qualitative data on taxpayer satisfaction. Recently, the section tasked with this responsibility was renamed the

Opinion Research Group, and this group currently resides in the Strategic Planning Division.

One initiative that resulted from opinion research is the creation of a small business assistance center, established as a three-year research test in the fall of 1993 in Buffalo, New York. Since it opened, the Center has provided assistance to more than 11,000 small business taxpayers and received the Hammer Award in April 1996 because of their new and innovative taxpayer services. Currently, an evaluation is being conducted to measure the Center's impact on compliance. Once the evaluation is completed, decisions will be made on the continuation of the Center in Buffalo and on the creation of centers in other locations.

To follow-up on the results of the 1993 customer satisfaction surveys, the Opinion Research Group conducted focus group projects to gather in-depth information on two issues: the burden of recordkeeping and taxpayers' perceptions of the fairness and integrity of the IRS.

The Opinion Research Group actively involves IRS executives in identifying and prioritizing key issues of concern to taxpayers. The Opinion Research Group also designs surveys for specific purposes at the request of individual executives. As a part of a National Performance Review effort during fiscal year 1995, the Opinion Research Group helped develop and conduct the "Out of Washington" events to obtain direct feedback from the public. The Opinion Research Group is currently partnering with IRS field offices on several data gathering efforts. They also have conducted focus groups with individual and small business taxpayers to gather opinion data concerning four processes identified by the Tax Settlement Reengineering Project. Following is a list and description of the four processes:

- Enable Taxpayers to Fulfill Their Tax Obligations (the process of proactively educating the general public about the tax process and motivating taxpayers to fulfill their tax obligations);
- Provide Assistance (the processes used by taxpayers to voluntarily fulfill their tax obligations); and
- Perform IRS Quality Control (the processing and perfecting of the taxpayers' returns and pipeline documents).

Analysis on the data collected through these focus groups will assist the reengineering project employees to achieve their objective of designing, prototyping, and implementing a tax settlement process that reduces cost, and improves quality and cycle time.

My office strongly endorse the actions being taken and in FY 1997 will sponsor focus groups in conjunction with Strategic Planning Division on the problems taxpayers experience with IRS. Information from these groups will be used in developing our FY 1997 report.

9. DELAYS BY IRS IN COMPLIANCE CONTACTS

Responsible IRS Official: Chief Taxpayer Service

Compliance contacts by the IRS, such as notices concerning discrepancies between income reported on a tax return and that reported by payers, are routinely initiated from one to two years after the income was received and/or reported. This burdens taxpayers with the possible lack of recall and records, as well as with potential additional penalty and interest charges.

Over the past few years, the IRS has taken steps to shorten the time between when income is reported by taxpayers on their tax returns and when the IRS contacts taxpayers if the information reported by payers differs. The goal is to reach taxpayers before they file their next return so that they can avoid repeating the problem that gave rise to the initial IRS contact. For example, in calendar year 1995, the elapsed time was reduced to three months; for tax year 1995 returns, initial taxpayer contacts began in November 1996. This is accomplished by extracting tax and information return data in two separate phases rather than waiting until all returns have been processed. The IRS is pursuing additional processing and procedural changes to further reduce the time between the document matching process and the date underreporter notices are issued.

My office endorses the actions being taken and has noted reductions in the elapsed time between the reporting of income and follow-up actions by the Service

10. PROBLEMS IN DETERMINING AND MAINTAINING TAXPAYERS' CURRENT ADDRESSES

Responsible IRS Official: Chief Taxpayer Service

A December 1994 GAO report, entitled TAX ADMINISTRATION, Changes Needed to Reduce Volume and Improve Processing of Undeliverable Mail, recommended that IRS more aggressively communicate to taxpayers the need to notify IRS when they change their address and to make the notification process easier for taxpayers. In addition, IRS sometimes fails to update its files to reflect the most current tax-

payer's address known to any IRS component, and does not always take adequate steps to assure that its communications reach both parties to a joint return when there has been a divorce or separation.

As described in the GAO Report, the IRS estimated that it had about 15 million pieces of undelivered mail in fiscal year 1992. The three principal causes of this problem were identified as:

1. Taxpayers move without leaving a forwarding address with the United States Postal Service (USPS);
2. The USPS may not deliver or forward mail, which is then returned to the IRS as undeliverable; and,
3. The IRS may incorrectly record taxpayers' addresses in its files.

The IRS has pursued a number of initiatives to improve the accuracy of taxpayer address information on file and to reduce the amount of undelivered mail that is returned to service centers. For example:

1. Internal Revenue Manual (IRM) procedures have been revised to require the update of a spouse's address of record when a taxpayer separates from his or her spouse.
2. IRMs also provide instructions to enter the "In care of" data, if present, when updating taxpayer addresses to IRS computer files.
3. Oral statements are now accepted to facilitate the processing of address changes.

4. From July 1995 through September 1996, the IRS participated in a joint effort with the United States Postal Service (USPS) to test the Federal Address Change System (FACS).

The following is a list of ongoing or planned actions that should reduce the amount of undelivered mail generated by the IRS and improve the accuracy of taxpayer address information contained in the Master File.

1. The USPS has required that, by July 1997, all mail pieces claimed at automation (i.e., discount) postal rates must have had their addresses validated against the NCOA database within 6 months of the mailing.
2. The IRS is testing the use of address software to improve delivery. The software helps ensure the consistency of city, state, and ZIP code information within an address, and corrects data transcription errors.
3. Due to the efforts of the Notice Reengineering Team in FY 1996, the IRS has taken steps to eliminate several high volume notices that will prevent approximately 18 million mailings. The elimination of these notices will also reduce undeliverable mail that would normally result from these mailings.

This area continues as a concern of my office. Other related actions are discussed in the section entitled Taxpayer Advocate Initiatives: Last Known Address (LKA) Study. We plan to continue discussion with Taxpayer Service to look for means of improving procedures for this program.

11. COST TO TAXPAYERS OF ELECTRONIC FILING

Responsible IRS Official: Chief Taxpayer Service

The cost of electronic filing is a burden to low income taxpayers who use electronic filing to get quick refunds.

The Service needs to continue to offer low or no-cost methods of filing electronically to encourage taxpayers to use this option and has initiated several programs that help provide relief from this burden. Three of these programs are:

1. TeleFile, which allows taxpayers to file their returns by telephone using a toll-free number. There is no cost to taxpayers who use this program. Nationwide expansion of this program in 1996 resulted in an increase in the number to 2.84 million from over 680,000 in 1995.
2. Tax Counseling for the Elderly (TCE) and Volunteer Income Tax Assistance (VITA), which provide electronic filing services. ELF returns filed by VITA sites increased from about 124,400 in 1995 to 226,300 in 1996.
3. Automated Walk-in Assistance and Electronic Transmission, which provides electronic filing for taxpayers requesting assistance with return preparation. Taxpayers must meet certain criteria to use this service. In 1996, about 50,000 electronic returns were processed by IRS walk-in offices.

My office strongly endorses the comment that IRS needs to offer low or no-cost methods to encourage the use of electronic filing so as not to place a burden on taxpayers who use this service out of proportion to the benefits IRS derives. Employer or community-sponsored programs provide another option for low income taxpayers should also be explored. The increased promotion of Telefile should also result in substantial increase in receipts over 1996.

12. PROBLEMS IN THE ADMINISTRATION OF THE EARNED INCOME TAX CREDIT

Responsible IRS Official: Chief Compliance Officer

The growing population of taxpayers entitled to the Earned Income Tax Credit frequently has less than average knowledge of tax laws and requirements, and need additional assistance in understanding the complexities of this provision.

The IRS has provided comprehensive support for enabling qualified taxpayers to obtain the Earned Income Tax Credit (EITC) and, if they wish, the Advance Earned Income Tax Credit (AEITC). To accomplish this, the IRS established partnerships with state and local government agencies and national and local community service, social welfare, religious, professional, business, labor and ethnic organizations.

The Service has made significant inroads to educate the public on the eligibility rules for EITC/AEITC, has made EITC and AEITC key elements of the VITA and TCE Programs, and developed special training for more than 80,000 volunteer assistants to help eligible taxpayers take the credit and apply for the advance credit. The training has included special video programs and focused sections in print materials.

During FY 1993 Post-Secondary Understanding Taxes Program was piloted in 27 educational institutions by 38 instructors with 768 students. In FY 1994, materials were available nationwide. Through a tele-marketing project, more than 2,500 sponsors requested the materials during the first year. Approximately 5,500 educators currently use the resource package. The program includes significant information dedicated to EITC and AEITC.

IRS actions taken during FY 1996 and proposed for 1997:

- Secured organizational sponsors for special VITA/EITC assistance sites and coordinated informational efforts with government and private sector organizations and print and electronic media.
- Entered into partnership with USDA Cooperative Extension Service to inform potentially qualified individuals about EITC and AEITC.
- Coordinated outreach actions with the Center for Budget and Policy Priorities that led to grassroots EITC and AEITC information campaigns by state and local social advocacy groups throughout the nation.
- Secured the cooperation of more than 80 major organizations to assist with the promotion of EITC/AEITC.
- Arranged for distribution of print promotional/information materials in English and Spanish.
- Arranged with state and local governments to include stuffers in various public assistance mailings, and to place posters and other promotional materials in public buildings.
- Arranged with major private sector employers and employer associations to distribute promotional materials. In July 1996 a task order was awarded under the terms of the Taxpayer Information and Education Multi-Year Contract (TIR-93-0059), providing for a rewrite of the current edition of the Post-Secondary Education Program.
- Worked with local school systems, educational associations, and other organizations to promote awareness among students' families and other eligibles.

Availability of sufficient funding to produce updated Volunteer Assistance and Compliance Education materials is critical. Without these products the instructors who use the Post-Secondary Understanding package will not receive the most current tax law; and the volunteers for the VITA and TCE programs will not receive the necessary training. Every year the number of individuals who rely on the services of the VITA and TCE volunteers increases, along with the number of adults required to file income tax returns for the first time.

My office endorses the stated actions and we are heavily involved to assure that necessary EIC compliance programs do not inordinately burden taxpayers and to provide expeditious release of refunds in case of significant hardship. Issues relating to EIC are also discussed in the section entitled Revenue Protection Strategy.

13. ABATEMENT OF INTEREST DUE BECAUSE OF IRS DELAYS

Responsible IRS Official: Chief Compliance Officer

There is a lack of equity caused by the inability of IRS to waive or abate interest charges that result because of delays caused by IRS.

The IRS has been statutorily unable to abate interest in most cases. The Tax Reform Act of 1986 (Taxpayer Bill of Rights) introduced IRC Section 6404(e)(1) to allow for an abatement of interest on deficiencies or payments when the IRS makes an error of delay in the performance of a ministerial act. This affects all taxpayers who owe taxes and perceive that additional interest has accrued due to delays caused by IRS employees or procedures. Section 301 of TBOR2, passed in July 1996,

expanded the scope of IRC Section 6404(e)(1) to provide that the IRS can abate interest with respect to any unreasonable error or delay resulting from managerial acts as well as ministerial acts. In addition, denial of claims for abatement are now entitled to Tax Court Review.

As a result of TBOR2, IRS has developed a National Examining Officer's Activity Record (Form 9984) which requires documentation in the case file of all activities on the case. In addition, in order to ensure Tax Court deadlines are met, Formal Interest Abatement Claim Disallowance procedures are also being developed.

My office will be monitoring the additional authority given IRS by the recently enacted TBOR2 legislation to assure that implementation procedures are developed which are consistent with Congressional intent.

14. PROBLEMS IN MAILING FORMS, ES VOUCHERS, ETC.

Responsible IRS Official: Chief Taxpayer Service

IRS seems to be experiencing increasing problems in mail items reaching the intended taxpayers.

This problem may be diminishing in severity since the most recent IRS Customer Satisfaction Survey (Publication 1866A) indicated that taxpayers gave IRS its highest rating in the entire value tracking section when responding to the statement: "The IRS provides people with the forms and information they need to complete their tax returns."

IRS presently mails approximately 160–170 million pieces of bulk mail each year to addresses that are generally 6 to 9 months old at the time of the mailing and have not been perfected with current "state of the art" address correction systems. In addition, all the IRS's bulk forms or return mailings are mailed by third class, which is less expensive than first class, but does not provide automatic forwarding or return-to-sender service and may experience potential delays in delivery.

The IRS has taken numerous steps over the years to improve its bulk mailing techniques and procedures, has improved the address software for large volume booklet mailings to move the products to the closest point of delivery for the first sorting and handling of the mail, and began using bar codes on all bulk mailings. In addition, the IRS is pursuing the use of the NCOA system for all bulk mailouts, is beginning to use software that performs address standardization routines for mailings to individual and business addresses, and has developed contract language stressing technical requirements for bulk mailouts and vendor responsibilities in meeting contract dates.

Plans for the future include the following initiatives to refine the IRS contract compliance and mail monitoring procedures:

1. New mail tracking and monitoring systems put in place by the USPS and industry will electronically track mail as it enters and moves through the postal system;
2. The IRS is exploring multi year contracting methods to ensure a more stable base of experienced, well-qualified contractors;
3. The IRS is exploring the use of "on demand" or "point of delivery" concepts rather than large volume single source contracts.
4. While bulk forms mailings continue to generally be the most cost effective method to deliver most forms and instructions to the widest possible audience, the IRS continues to explore and expand the use of alternatives.

My office fully endorses the actions being taken.

15. SEPARATE MAILING OF MATH ERROR NOTICES AND EFFECTED REFUND CHECKS

Responsible IRS Official: Chief Taxpayer Service

Several million taxpayers who receive refunds each year also make mathematical errors in computing the tax on their returns affecting their refund amounts. Currently, the explanation of the error and the refund checks are mailed separately, causing confusion to taxpayers.

Currently, the IRS forwards an indicator, via the refund magnetic tapes from service centers, to the Financial Management Service's (FMS) Regional Financial Centers, that a math error was identified in the original return and that the refund amount has been corrected. FMS inserts a stuffer with the affected refund checks advising taxpayers that their refunds may be for amounts other than what they expected, and that an explanation for the difference will be sent separately. The proposal to include a math error notice indicator along with the refund check tape was scheduled to be addressed as part of the IRS plan to upgrade its computer systems. However, due to funding uncertainties, both in the IRS and FMS, this issue is not being pursued at this time.

My office will continue to work towards a better solution to this problem which involves two agencies in Treasury. Taxpayers who believe their refund checks comes

from IRS call the the Service unnecessarily. We believe a comprehensive cost benefit analysis would be useful to determine the potential to reduce both taxpayer burden and the cost to the IRS in handling unnecessary calls.

16. DELAYS BY IRS IN PROCESSING OFFERS IN COMPROMISE

Responsible IRS Official: Chief Compliance Officer

The number of offers-in-compromise has increased greatly because of changes in IRS policy toward their consideration and acceptance. However, IRS's ability to respond timely to those submissions has not kept pace.

As a result of the substantial increase in offers in compromise inventory since the Service implemented the changes to the offer program in 1992, the IRS has established a new disposition goal of six months. The IRS recognized that many offers prior to 1992 were not resolved for long periods of time. The cumulative disposition rate within 6 months has ranged from 54 percent in 1993 to 58 percent in July 1996.

A core business group was formed in April 1996 to evaluate the entire offer process. The group has not completed its task to date but has made numerous recommendations which should help to reduce the inventory and allow for a more timely resolution. Additionally, offers continue to age while they are in the hands of District Counsel. TBOR2, however, provides that Counsel now only has to review offers with liabilities which exceed \$50,000. The great majority of offers in the inventory are for liabilities below \$50,000. It is expected that this change will also decrease the amount of processing time.

My office feels the steps being taken should have a positive impact on improving the timeliness of offer processing. We also plan to review the acceptance rate for offers as well as consistency of processing actions.

17. BURDEN CAUSED BY CASH MANAGEMENT PRACTICES

Responsible IRS Official: Chief Taxpayer Service

The IRS does not seem to have adequately addressed burdens that the use of lockbox vendors (i.e., a bank to receive and quickly process tax payments) cause for taxpayers, such as separate envelopes for returns and remittances, additional postal charges, confusion caused taxpayers by changes to lockbox addresses, and problems associated with lockbox employee embezzlement.

Since the advent of lockbox processing, procedures have been in place to safeguard taxpayer payments and to prevent theft or fraud. Although some instances were reported and addressed early-on, the IRS is not aware of recent problems associated with lockbox employee embezzlement. The burden issue with regard to lockbox occurs when the IRS requires taxpayers to separately send payments to a lockbox address and tax returns to an IRS service center. To deal with this issue, tax year 1996 Form 1040 tax packages will contain a single envelope with instructions that direct taxpayers to mail returns with payments to the same address. Two labels will be provided, one with the lockbox address for returns with payments and the other with the appropriate IRS service center address for non-remittance returns.

My office endorses the stated actions being taken. In addition, we believe when such changes are proposed by the Treasury Department to save the Department either costs or interest expense, consideration should be given to the increased burden on those affected. For example, in this case a small part of the savings from the expedited cash flow could have been set aside to offset the possible increased postage costs for taxpayers.

18. LACK OF ACKNOWLEDGMENT OF TAXPAYERS' SUBMISSIONS AND PAYMENTS

Responsible IRS Official: Chief Taxpayer Service

Taxpayers often receive no acknowledgment of receipt when they submit claims, payments, and responses to IRS communications, nor information on the eventual disposition of the matter.

Prior to June 1991, taxpayers were sent an acknowledgment letter when their correspondence, claim, payment, etc., was received. However, there was no measurement to ensure that the IRS response specifically acknowledged everything received or addressed all issues when closing the case. Since 1991, the IRS increased its emphasis on improving responsiveness to taxpayer correspondence, emphasizing closing taxpayer correspondence within 30 days rather than sending acknowledgment (interim) letters. During implementation of this practice, a performance analysis system was installed to monitor the accuracy and timeliness of responses.

Current criteria do not call for acknowledging incoming mail (such as "Enclosed, please find my tax payment . . .") that does not require further contact with the taxpayer by the IRS. However, such acknowledgments will be done if there are other issues which require action by the IRS when an interim or final letter is pre-

pared. Recently, some computer-generated pattern letters were revised to include a paragraph acknowledging a payment received with the taxpayer's correspondence.

The IRS continues to explore ways to improve its responsiveness to taxpayer correspondence. For example, the acknowledgment paragraph for the taxpayer's correspondence and payment will be put in all letters as a selective paragraph instead of leaving it to the IRS employee to manually type. Correspondence letters are continually revised to make them more understandable and meaningful to taxpayers.

My office endorses the efforts taken. The additional cost of further acknowledgment needs to be weighed, in our view, against the additional costs of non-acknowledgment such as unnecessary telephone calls. This should be explored as part of efforts addressed at reducing unnecessary telephone demand.

19. LACK OF ONE-STOP SERVICE

Responsible IRS Official: Chief Taxpayer Service

Despite efforts to address this problem, taxpayers continue to be frustrated when they must make repeated contacts and deal with several different IRS employees to resolve separate but closely related tax issues.

GAO and IRS Internal Audit findings indicate that taxpayers expect to make one call and talk to one person who will resolve all of the issues they raise. Customer Service/Taxpayer Service assistants receive extensive training in most areas of account resolution, but it is still not possible to expect every assistant to have the necessary skills to handle all issues all the time. Sometimes it is necessary for them to transfer the call to another area for issues not within their realm of knowledge/authority.

Prior to 1995, one-stop service was measured only for account calls in the IRS toll-free districts. The rate for Business Year 1994 was 96.65 percent, compared to 91.32 percent for 1993. In 1995, the traditional definition and measurement of one-stop service was replaced with a new measure, Initial Contact Resolution (ICR), which measures the satisfactory resolution of all issues resulting from a taxpayer's first inquiry to the IRS.

ICR became effective March 1995 and now measures all types of inquiries to the IRS (i.e., telephone, walk-in or correspondence inquiries). Five different categories make up this measurement. ICR is being tracked in the first three categories as follows:

1. The satisfactory conclusion of all issues during a taxpayer's first inquiry while on-line with the first IRS representative.
2. The satisfactory conclusion of all issues during a taxpayer's first inquiry while on-line with more than one IRS representative. (Due to many types of complex account problems, it is not feasible to expect that all assistants will have the answers to each and every issue.)
3. The satisfactory conclusion, off-line (written referrals, correspondence, messaging) of all issues as a result of the taxpayer's first inquiry.

Two additional categories are used to measure service but are not considered as meeting ICR:

4. The satisfactory conclusion of all issues as a result of or during the taxpayer's subsequent inquiry on the same issue(s).
5. The inability to provide satisfactory conclusion to the taxpayer's issues on-line.

The national ICR rate for the 12-month period ending in August 1996 was 81.3 percent, up from 79 percent in December 1995 (the December figure reflects only an 8-month average). Specific "reason codes" were developed to assist tracking, determination and identification of the top conditions causing taxpayers to re-contact the IRS. Trend analysis has been performed on the data to target the top reasons. This information allows the IRS to make changes within its control (i.e., IRM procedures, acceptance of oral testimony). However, situations such as system limitations (i.e., computer system is down) also prevent the IRS from achieving 100 percent ICR and cannot readily be changed at the present.

My office endorses the actions taken as well as those planned for the future.

20. INCONVENIENT TIMES AND LOCATIONS FOR DOING BUSINESS WITH IRS

Responsible IRS Official: Chief Taxpayer Service

Working taxpayers often find it difficult to do business with IRS during IRS' normal weekday, 8:00 a.m. to 5:00 p.m. business hours because they are at work themselves during walk-in hours of operation.

District Directors nationwide were encouraged to evaluate the effectiveness of walk-in offices and their locations and to decide how best to provide services based on demographics and available resources. The Service has also aggressively publicized alternatives to direct face-to-face IRS assistance, including the availability of volunteer assistance at approximately 20,000 VITA and TCE sites nationwide.

Tax forms and publications are available electronically on the Internet 24 hours a day. In addition, the IRS makes them available by CD-ROM and in many public libraries. The IRS Internet Home Page also provides answers to frequently asked questions and other tax information 24 hours a day. This past year, many new services including Tax Topics, scannable Publications, and Tax Tables were also put online. Also, the IRS continues to make its district office toll-free telephone assistance services available 10 hours each weekday. Answers to account-related inquiries are available 13 hours per day on the IRS 1-800-TAX-8815 assistance number.

My office endorses the actions taken and will continue to advocate that times for access be expanded, within available resources, to allow taxpayers the option to do business with us at times more convenient for them.

IV. APPENDICES

APPENDIX A: REVENUE PROTECTION STRATEGY

The following is an overview of each of the Taxpayer Advocate's recommendations regarding the Service's Revenue Protection Strategy, a program to strengthen the IRS' ability to detect and prevent fraud. A number of these recommendations are either being implemented or are planned for implementation at some time in the future. Some will require additional discussion prior to a determination of appropriate action.

Assistant Commissioner (Customer Service) Comments: Legislation has been enacted giving math error authority to the Internal Revenue Service for missing/invalid Social Security Numbers for dependent exemptions and Earned Income Tax Credit for qualifying children. Self employment tax work and dependent care credit are also impacted. Due to this legislation, there will be radical changes in the predominant type of work Service Center Examination does, the volume of work that can be accomplished, the methods of obtaining that work, and the procedures that will be implemented for Examination's role in the RPS for processing year 1997. We will continue to consider any negative impact to the taxpayer as we go about the primary objective of Correspondence Examination which is determining the correct liability using deficiency procedures. Additionally, we will solicit input from the Advocate's staff when the 1997 Revenue Protection Strategy Guidelines package for Service Center Examination is coordinated with the other National Office functional areas. Comments on the specific recommendations made are as follows:

1. Revise the Wording on the Acknowledgment and Interim Letters.

We agree with this recommendation and we are revising the generated acknowledgment and interim letters used by Service Center Examination (not just in the Revenue Protection Strategy). The revisions were made based on input from the service centers and your staff. At this time, we do not know if Information Systems (IS) will be able to program the changes for the start of the 1997 processing year.

2. Revise the CP 19 and CP 20 Notices Initiated by Selection of a Case Based Upon RPS Criteria.

Revisions to the CP 19 and CP 20 notices have been requested for 1997 based on input from the service centers and the Advocate's staff under the assumption that math error legislation would not be implemented in 1997. If the math error legislation is implemented in 1997, the CP 19 and CP 20 notices systemically generated for EITC, dependent exemptions, Self-Employment Tax and Child Care Credit will cease to exist. Any Examination letters developed for the programs that will be worked by Correspondence Examination, under the RPS procedures, will be developed by the Office of Service Center Examination.

3. Establish an IDRS Control When Correspondence and Refund Inquiries Are Received in the Unit.

We cannot implement this recommendation. All Service Center Examination Branches do not have adequate resources (IDRS terminals and staffing) needed to devote to this recommendation. Again, if the math error legislation is implemented in processing year 1997, the Service Center Examination Branches will be working their RPS cases manually. Therefore, they should have a better management of their correspondence since they will control how much work they take in weekly by what they are able to accomplish. The Office of Service Center Examination will be more vigilant in assuring that:

- Examination does not receive correspondence/refund inquiries that does not meet the criteria for routing to Examination (that was observed at all 10 service centers last year).

- Examination works their correspondence/refund inquiries timely by insuring more detailed instruction, monitoring status updates, performing evaluative visits and monitoring the weekly PRP reports provided by the Advocate's staff.

4. Establish a Separate Status Code When Additional Information Is Needed to Determine the Taxpayer's Eligibility.

This problem was observed on our visitations to the service centers and was cited in our reports; however, we concluded that a larger problem was that service centers were not following instructions to put cases in Status 23 because this would have entailed taking work out of the automated system. If the math error legislation is implemented in 1997 and a manual AIMS control process is in effect for our RPS work, we will consider mandating a second status code in addition to Status 23 for the scenario described in the recommendation. In our RPS Request for Information Services (RIS) for processing year 1998, we will request a programming change for the automated system. No additional programming changes will be requested for 1997.

5. Establish a Separate Status Code When a Case is Closed as Agreed or No Change.

Disposal codes, not status codes, explain how an Examination case was closed. We don't believe any additional codes are necessary. There are "no change" and "agreed" disposal codes.

6. Require that All Centers Use the Same Status Codes and Organization Codes When Indication Case Actions.

This problem is not limited to RPS Examination work. We agree with the recommendation to use consistent RPS status codes Servicewide in light of the fact that account status information, through universal access, is no longer confined to a service center and its jurisdictional district office. We will ensure that 1997 RPS guidelines address this issue. Organization code information, however, primarily serves as a tool for Examination to locate work within Examination that is not limited to service center RPS case processing and has no bearing on information provided to the taxpayer.

7. Indicate the Date the Acknowledgment Letter and Interim Letter Is Sent on AIMS or IDRS.

No new AIMS programming requests will be submitted for processing year 1997, since it is not clear at this time what the benefits of the recommended change would be to taxpayers or telephone assistants. Again, the impact of this recommendation is not limited to Revenue Protection Strategy work. With more information from the Problem Resolution staff, we will evaluate a need to request a programming change from AIMS for processing year 1998. The issue of IDRS control has previously been addressed in the response to the third recommendation.

8. Issue Clarification for the Handling of Cases Where Taxpayers Live in the Same Household. Currently, EITC and Head of Household Filing Status Are Being Denied Automatically in Some Centers, While Others Are Not.

We will provide more detailed instruction in the Duplicate Address section of our 1997 RPS Guidelines to address this problem.

9. Provide a Separate Disposal Code (DC) for Default Cases (Status 90) DC 10, for Cases With No Response and DC XX, for Cases Where a Response Was Reviewed But the Information Provided Was Not Enough to Substantiate the Taxpayer's Eligibility.

No new programming changes will be requested for processing year 1997 and again, the recommended change would impact more than just Service Center Revenue Protection work. We will work with the Advocate's staff to further define the nature and extent of this problem, and will consider this programming recommendation for 1998.

10. Provide a Separate Status or Organization Identifier for Cases about to Default or an Indicator to Indicate Cases Where There Is No Response Versus Cases Where There Was a Response But It Was Not Enough to Validate the Eligibility.

No new programming changes will be submitted for processing year 1997. We will evaluate this programming change for the automated system in conjunction with our Examination plans for the 1998 Revenue Protection Strategy which have not yet been determined.

During the Office of SC Examination's 1996 evaluative visits, it was our observation that the service centers with the least number of status codes had less labor-intensive operations than those that defined everything they did with some type of

terminal update action. Those centers with the fewest status codes were able to locate cases better, move their inventory faster, use less resources and answer correspondence and telephone calls more expeditiously. Any future changes we make in the RPS program for Examination will consider efficiency along with other factors cited in the recommendation.

11. Revise Customer Service Time Frames for Initiation of Refund Inquiries and PRP Case To Coincide with Examination Time Frames.

We are in the process of evaluating this recommendation but plan to coordinate and make agreed upon recommendations once this process has been completed. We will coordinate with Service Center Examination and update IRM (21) as appropriate to improve initial contact resolution on refund inquiry cases.

12. Revise Procedures To Include Research of Universal IDRS TO Answer RPS Calls Routed to Other Call Sites and Input of History Items When Forms 4442 or 5543 Are Sent.

We currently have general procedures on the use of universal IDRS in our manual and guidelines but will review the procedures and guidelines to see if additional instructions are needed.

13. Revise Procedures To Open an IDRS Control to the Center When Forms 4442 or 5543 Are Sent.

This recommendation also requires further coordination and analysis with all organizations involved in the process. We need to first ensure monitoring systems will be improved prior to making any changes.

TAXPAYER ADVOCATE'S COMMENTS:

During the final quarter of FY 1996, operational functions that had previously been under the separate jurisdictions of the Chief Taxpayer Service and Chief Compliance Officer, i.e., all operational functions which provide other than face-to-face taxpayer contact, including Service Center Examination were combined into one organization, Customer Service, headed by the Assistant Commissioner (Customer Service). By the end of FY 1996, all of the RPS recommendations contained in my Advocacy Memorandum addressed to the Chief Compliance Officer and Chief Taxpayer Service fell within the purview of the newly created Customer Service organization.

We acknowledge that the Service's newly legislated math error authority under IRC 6213(g)(2) to make adjustments for failure to include a correct Taxpayer Identification Number (TIN) or failure to pay self-employment tax on a return claiming the Earned Income Tax Credit, the focus of the Revenue Protection Strategy will shift dramatically during the 1997 filing season. This should greatly reduce the volume of RPS cases handled through the Examination process. Our recommendations will still apply, however, to those cases and other refund freeze cases that will be worked under the statutory notice of deficiency process.

A number of RPS recommendations were made in order to provide better information about the status of RPS audits via existing systems to IRS employees outside the examining office who respond to taxpayer inquiries. Taxpayers' whose refunds are frozen because of RPS are far more likely to contact the IRS than taxpayers involved in routine audits. RPS taxpayers are generally lower income taxpayers who are anxiously awaiting issuance of refunds, while taxpayers involved in routine audits are generally not expecting any payment from the Service. RPS taxpayers, therefore, are likely to try to contact us determine what actions are necessary from them to expedite payment from the IRS. As a result, the systems routinely used in the past primarily to manage audit inventories have been called upon under RPS processing to serve an additional purpose of providing current status information, and they do not adequately meet that requirement. We will continue our coordination efforts with all functional areas involved in this process to improve controls and processing actions.

Establishing appropriate IDRS controls for each case (recommendation 3) would obviate much of the need for some of the other recommendations. Most of the RPS cases which became PRP cases during the 1996 filing season occurred because front line assistants mistakenly concluded from information available on existing systems that no response had been received from the taxpayer, when in fact an incomplete response had been received. In considering the resource impact of our recommendations, the resources devoted by the Service to process the FY 1996 RPS PRP cases should be included in the calculation. We look forward to continuing to work with the Customer Service staff to review our differences and to explore various alternatives to enhance the RPS process.

APPENDIX B: LAST KNOWN ADDRESS (LKA) STUDY

During FY 1994, the Taxpayer Advocate sponsored a cross-functional analysis of the IRS's efforts to improve the way it updates and maintains taxpayer address records. Twenty-three recommendations (ten short-term and thirteen long-term ones) were made as a result of that study and were approved by the Deputy Commissioner in August 1994.

In a December 1994 report, entitled TAX ADMINISTRATION, Changes Needed to Reduce Volume and Improve Processing of Undeliverable Mail, the General Accounting Office (GAO) reached the following conclusion:

Although it is unlikely that the problem of undeliverable mail can be totally eliminated, IRS needs to give undeliverable mail more attention because it adversely affects operations and can cause undue burden on taxpayers. Although previous efforts to deal with this mail were primarily limited to IRS' service center Collection functions, new efforts are expected to have Service-wide consequences because IRS agreed in August 1994 to implement recommendations of the Taxpayer Advocate's study. The implementation of those recommendations should have significant impact on reducing IRS' undeliverable mail.

Since the December 1994 GAO report, twelve of the twenty-three approved recommendations were implemented or were closed (without being implemented). Actions implemented by the Service involved simplification and standardization of address instructions to taxpayers, the implementation of new guidelines for accepting oral statements during compliance contacts, clarification of procedures dealing with divorced and separated taxpayers, and expanded training for employees on change of address input procedures.

Overall we believe progress has been made in this problem area. At this time we believe this issue can be closed with the exception of a few recommendations which are still in progress.

One of those projects involves a test funded by the Taxpayer Advocate's Office and conducted by the Indiana District Problem Resolution Office. The test provides for the direct distribution of the IRS change of address form within the U.S. Postal Service's Change of Address confirmation letter and Welcome Kit. On December 12, 1996, I issued an Advocacy Memorandum to the Chief Taxpayer Service recommending that he consider implementation of this proposal nationwide. My office is tracking that recommendation separately in the Commissioner's Reporting System, and I will report on the Chief Taxpayer Service's response in my FY 1997 report to Congress.

The second issue provides for the development of a legislative proposal to define last known address. After review by Chief Counsel, they agreed to establish a project to define last known address by regulation in lieu of the legislative recommendation. At this time we cannot move further until the Chief Taxpayer Service completes a business case for the time frames to forth for processing returns and notifications (i.e., the numbers of days necessary to process address information from returns and notification). This item will remain open pending this response.

To assist the reader, recommendations denoted with an (S) are considered short-term while those with an (L) are long-term recommendations.

RECOMMENDATIONS CLOSED DURING FY 1995

Between August 1994 and September 1995 seven of the approved recommendations were implemented, or were closed without being implemented, as summarized below.

S2. Standardize Address Instruction to Taxpayers
Responsible IRS Official: Chief Taxpayer Service

IMPLEMENTED

S4. Provide Training on Address Formats for Employees
Responsible IRS Official: Chief Management and Administration

IMPLEMENTED

S5. Standardize Procedures for Accepting Oral Statements During All Compliance Case Contacts
Responsible IRS Official: Chief Compliance Officer

IMPLEMENTED

S7. Standardize Procedures for Address Changes for Divorced and Separated Taxpayers
Responsible IRS Official: Chief Taxpayer Service

IMPLEMENTED

L6. Incorporate Up-Front Quality Address Checks in all Future Input Systems

Responsible IRS Officials: Chief Taxpayer Service and Chief Information Officer

CLOSED:

Recommendation was closed because of Tax Systems Modernization "re-scoping." Its eventual implementation will be monitored by the responsible officials.

L7. Implement Standard Address Check Program "CZALL" in all Current Input Systems

Responsible IRS Official: Chief Taxpayer Service

IMPLEMENTED

L12. Conduct Cost/Benefit Analysis of Processing Addresses from Extension Requests

Responsible IRS Official: Chief Taxpayer Service

CLOSED:

The cost/benefit analysis calculated the cost to implement at about \$1 million and 48 FTE. Analysis further revealed that 19 percent of extensions contain practitioners', not taxpayers', mailing addresses.

RECOMMENDATIONS CLOSED DURING FY 1996

At the beginning of FY 1996, sixteen of the twenty-three recommendations approved in August 1994 had not been implemented or otherwise closed. A follow-up request was made on July 9, 1996 to determine the current status. During FY 1996, five more recommendations were implemented or closed, as summarized below:

S8. Test Distribution of IRS Forms 8822M, Change of Address Request, at U.S. Post Office

Responsible IRS Official: Chief Taxpayer Service

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INCOMPLETE

The initial test distribution for Form 8822M was completed by Indiana PRO in September 1995. Results could not be measured because the required system was not in place to extract and analyze necessary baseline data.

CHIEF TAXPAYER SERVICE'S RESPONSE: Closed

This action involved implementing a test to determine the effectiveness of including an IRS change of address mailer in the U.S. Postal Service's (USPS) Change of Address Kit. The test was conducted by the PRO in Indianapolis, but the absence of baseline data made results difficult to measure. However, the process that was tested would not qualify as a means of meeting the new Address Quality requirements established by the USPS for pre-sort postal discount rates. Consequently, the Service is pursuing other options (See comments under Recommendation L2, below.) to improve the accuracy of IRS address information.

TAXPAYER ADVOCATE'S COMMENTS:

Two different change of address form tests conducted by the Indiana PRO. The first, discussed here under recommendation S8, involved distribution of IRS change of address forms at selected Indianapolis post offices, and a comparison of rates of undeliverable IRS refund checks within those ZIP codes during the filing season periods preceding and subsequent to the test distribution. Although the test distribution was completed by the Indiana PRO, as scheduled, the test results could not be measured because the needed baseline data was not provided.

The second test distribution of IRS change of address forms by the Indiana PRO is discussed below under recommendation S9. Since the results of that test seem to have far more potential than that in S8, we consider recommendation S8 as incomplete but closed.

S9. Test Distribution of Forms 8822 to U.S. Postal Service Change of Address Customers

Responsible IRS Official: Chief Taxpayer Service

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: ACTIVE

Initially, Compliance agreed to conduct this test proposed by the Cincinnati Service Center (CSC), between April and August 1995, with an analysis of results completed by February 1996. In March 1995, the Compliance test at CSC was dropped because of complications with the vendor, and Taxpayer Service (TPS) Input Processing Division assumed responsibility for this item. TPS provided an action plan indicating initial testing to begin at the Philadelphia Service Center (PSC) in May 1995 and continuing through September, with a report of test results targeted for October 1995. We understand that the test is still in progress at PSC.

In addition, a modified version of this test is being undertaken by the Indiana PRO, distributing, via a USPS "Welcome Kit" vendor, modified Forms 8822M that were revised based on feedback from focus group interviews of postal service customers. Other than staff time devoted to processing responses and collecting statistical data, and the cost of printing the Forms 8822M, the vendor is distributing the Service's change of address form at no charge. The comparative data from both of these tests will be useful in assessing their effectiveness.

CHIEF TAXPAYER SERVICE'S RESPONSE: Closed

Because of reluctance by the USPS to provide access to its National Change of Address (NCOA) database for use by IRS in mailing out Forms 8822 to taxpayers who filed change-of-address notifications with USPS, another method of testing this concept was explored. Under this alternative, the USPS mailed letters on behalf of IRS to individuals who had moved. Taxpayers who received these letters were asked to send confirmation of their address changes to IRS (Philadelphia Service Center). These confirmations included signatures, social security numbers, telephone numbers, and dates of birth of the people who moved, and provided a basis for IRS to update its Master Files to reflect the address changes. The test ran from July 1995 through September 1996. During this period, confirmation was received on only 25% of the letters sent out by the USPS. The test was terminated for the following reasons: the USPS was reluctant to provide IRS with a list of movers who did not respond to the mailing; other agencies were reluctant to actively participate in testing and developing the system; funding was not available to expand the testing area; and, the USPS determined that this process would not qualify as a means of meeting the new Address Quality requirements for pre-sort postal discount rates.

The Problem Resolution Office, Indiana District, conducted a modified version of this test from May-August 1996, during which the Postal Service included a modified version of the Form 8822 in the Movers Kit accompanying the confirmation letter from USPS. As of August 4, 1996, only about 17-18% of the recipients sent the confirmation forms to IRS. Also, as in the Philadelphia test described above, this process will not qualify as a means of meeting the new Address Quality requirements for pre-sort postal discount rates.

Consequently, the Service is pursuing other options to improve the accuracy of IRS address information. (See comments under Recommendation L2, below.)

TAXPAYER ADVOCATE'S COMMENTS:

For purposes of this study, I concur with the Chief Taxpayer Service's response indicating that the original initiative of his office is closed. Having said that, I believe the results of the second test mail-out coordinated by the Indiana PRO with an external vendor proved to be very successful and at a lower cost than the test conducted by TPS (12 cents per unit versus 50 cents per unit). While implementation of this test distribution process may not meet the USPS' Address Quality requirements, the TPS distribution process also fails to meet postal requirements. This will need to be addressed in either case.

The other options, mentioned above by the Chief Taxpayer Service and discussed under recommendation L2, also need to be pursued. However, since the eventual implementation of any of those options is neither assured nor close at hand, I have recommended that the Chief Taxpayer Service adopt the method tested by the Indiana PRO.

On December 12, 1996, I issued an Advocacy Memorandum to the Chief Taxpayer Service recommending that he consider the vendor's proposal and begin negotiating a contract on behalf of the IRS. My office is tracking that recommendation separately in the Commissioner's Reporting System, and I will report on the Chief Taxpayer Service's response in my FY 1997 report to Congress.

L4. Standardize Processing of "In Care of" Name Lines

Responsible IRS Official: Chief Taxpayer Service

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INCOMPLETE

Mail label and notice programs were to have been changed to display "in care of" name lines. A March 1995 status report stated that a position paper was developed and a decision document signed, but the content of those documents was not provided. A December 1995 status report stated "Completed. IRM procedures have been issued to be effective January 1, 1996." Since the status report did not specify the IRM section, we contacted Taxpayer Service. But, research of the IRM section cited (i.e., IRM 3(13)50) shows no reference to processing "in care of" name lines.

CHIEF TAXPAYER SERVICE'S RESPONSE: CLOSED

The Taxpayer Service organization issued a Production Evaluation Report to the field instructing them to ensure that IMF address changes that have "in care of" data are properly input. References on where to enter this data are included in section 3(13)24.1 of IRM 3(13)20, BMF Account Numbers and in section 3(13)52.15 of IRM 3(13)50, IMF Account Numbers (1997 version). Procedures have been written and issued to all service centers.

TAXPAYER ADVOCATE'S COMMENTS:

I consider this recommendation fully implemented.

L13. Conduct Cost/Benefit Analysis for Processing Addresses from Electronic Filing (ELF) Forms

Responsible IRS Official: Chief Taxpayer Service

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: ACTIVE

In February 1996, Taxpayer Service shared a draft costing and decision paper proposing that the Form 8453 Document Locator Number (DLN) and last known address not be posted to the Master File because of the estimated costs exceed the expected benefits, and because of ongoing initiatives to eliminate Form 8453 in favor of a paperless system. No final decision has been communicated.

CHIEF TAXPAYER SERVICE'S RESPONSE: CLOSED

The cost/benefit analysis for processing addresses from ELF forms has been completed, and on July 10, 1996, Chief Counsel concurred with our decision not to post address information from taxpayers' Forms 8453 to the Master File. (See discussion of Recommendation L5, above.)

TAXPAYER ADVOCATE'S COMMENTS:

I do not object to the decision reached, and consider recommendation L13 closed.

OPEN RECOMMENDATIONS:

As of the end of FY 1996, eleven of the original twenty-three Last Known Address Study recommendations remain open and not implemented, as summarized below:

S1. Develop Legislative Proposal to Define Last Known Address

Responsible IRS Official: Chief Counsel (primary)

Chief Taxpayer Service (secondary)

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INACTIVE

No business case has yet been developed by Taxpayer Service, describing the correct and appropriate time frames for processing address changes from notifications and from tax returns. Internal procedures, i.e., Rev. Proc. 90-18, currently provide for 45 and 90 day processing time frames. The business case must be made so that Chief Counsel can draft the legislative proposal. The Taxpayer Service action plan initially contained a June 1995 target date for completion of the business case. That was subsequently rescheduled to October 1995 because of delays, then to January 1996.

As an alternative to the legislative proposal, Chief Counsel has suggested defining last known address by regulation, but the business case for processing address changes from notifications and tax returns would still be required to open a regulation project. (See recommendation L5 below.)

EXCERPT FROM CHIEF COUNSEL'S RESPONSE: IN PROCESS

Our action plan on S1 specifically provides that Chief Counsel will seek Executive Committee clearance (with coordination through Legislative Affairs) of a legislative proposal to define last known address after business cases are established by Collection and Taxpayer Services.

On June 29, 1994, the Taxpayer Advocate requested that a business case be developed for the time frames set forth for processing returns and notifications (i.e., the numbers of days necessary to process address information from returns and notifications). We have not received this business case.

If a business case for the time frames set forth for processing returns and notifications is made, we will establish a regulation project to define last known address by regulation, in lieu of the legislative recommendation. However, we believe that the use of third party information required legislation.

CHIEF TAXPAYER SERVICE'S RESPONSE: IN PROCESS

We are still in the process of completing a business case to determine the correct and appropriate time frames for processing address changes from notifications and from tax returns. My staff is working with the Advocate's staff to revise a preliminary paper they prepared earlier this year on this issue.

TAXPAYER ADVOCATE'S COMMENTS:

This item will remain open until discussions are completed.

S3. Standardize Address Format on Internal Input Documents

Responsible IRS Official: Chief Taxpayer Service

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: ACTIVE

Standardized format required on all revisions after June 1996; to be completed by December 1996.

CHIEF TAXPAYER SERVICE'S RESPONSE: IN PROCESS

The National Director, Multimedia Production Division, issued Publishing Procedure 164, Standardized Taxpayer Address Format on all Internal Use Forms. This procedure is used by all printing analysts to ensure the proper address format is used when revising internal use forms. This is an ongoing process as forms are submitted by originators for revision and printing, and has been in effect since May 1995. All forms will be reviewed for conformance and revised as needed by December 1996.

TAXPAYER ADVOCATE'S COMMENTS:

I am satisfied with the progress of the implementation of this recommendation.

S6. Test Effectiveness of Address Change "Check Box" on Form 911, Application for Taxpayer Assistance Order (ATAO)

Responsible IRS Official: Taxpayer Advocate

TAXPAYER ADVOCATE'S COMMENT: IN PROCESS

Data was gathered on a random sample of more than 350 Forms 911; the results have been tabulated, and analysis of data has been completed and is being reviewed within my office. The results will be circulated for comment beginning in January 1997 among appropriate internal stakeholders.

S10. Develop Change of Address Education Campaign Through Taxpayer Education (TPE) Program

Responsible IRS Official: Chief Compliance Officer

TAXPAYER ADVOCATE'S COMMENTS:

Some Taxpayer Education materials have been revised to include Change of Address information; others will be revised if funding is available. I am satisfied with the progress made in implementing this recommendation, but still consider it open.

L1. Develop Servicewide Standard Procedures for Use of Locator Services

Responsible IRS Official: Chief Compliance Officer

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INCOMPLETE

Initial action plans called for development of Servicewide locator procedures by June 1995 and implementation of locator services units at all service centers by September 1995. Funding was identified as a critical issue for implementation of this recommendation. As of November 1995 status report, Servicewide procedures were to be developed by May 1996; locator units had been established only in CSC and PSC.

CHIEF COMPLIANCE OFFICER'S RESPONSE: IN PROCESS

Each year following the development of this recommendation by the Last Known Address Study Group, funding for multi-functional locator research was either cut or eliminated. The Inventory Delivery System (IS), which will operate in each service center, incorporates several modules such as address research, telephone number research, and asset research that will perform functions similar to the locator work envisioned by the multi-functional locator units under recommendation L1 of the Last Known Address Study. The IS prototype began in July 1996, at the Philadelphia Service Center, and will continue during FY 1997. We expect the Investment Review Board (IRB) to make a decision in May 1997, concerning IS roll-outs to the other centers. If the IRB approves the roll-out, implementation would occur in FY 1998 (subject to budget limitations).

TAXPAYER ADVOCATE'S COMMENTS:

I will continue to pursue adoption of this recommendation because of the potential to reduce taxpayer burden and overall costs.

L2. Develop Servicewide Procedures for Processing Undelivered Mail

Responsible IRS Official: Chief Taxpayer Service

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INACTIVE

Initial action plans called for a multi-functional effort to design, develop, test, and implement standard procedures for Undeliverable Mail System (UMS) to be completed by June 1995. A March 1995 status report showed all target dates delayed 6 months while a multi-functional group (to meet in June 1995) reviewed results of different tests underway (e.g., FACS, NCOA) to reduce undelivered mail volume. No revised action items or target dates were provided.

CHIEF TAXPAYER SERVICE'S RESPONSE: IN PROCESS

Prior to convening a multi-functional task force to develop standardized procedures for processing undelivered mail, the Submission Processing organization decided to participate in several studies to determine how to reduce the amount of undelivered mail the Service receives.

As stated in S8 and S9, above, IRS participated in a joint effort with the U.S. Postal Service (USPS) in 1995 and 1996 to test the Federal Address Change System (FACS). Under this system, which was slated to be an inter-agency process and was to reduce IRS undelivered mail by 30% to 50%, the USPS sent letters asking for address confirmation to people who had moved in a given area. About 25% of the population filing change-of-address forms with the USPS responded to the initial mailing.

The USPS has given an extension to July 1997 for implementation of its new requirement that all mail pieces claimed at automation (i.e., discount) rates must have had their addresses validated against the NCOA within six months of the mailing. Funds to process the Master File through NCOA are included in the FY 1997 budget. IRS is also attempting to acquire the NCOA database and legal authority to update taxpayers' addresses to help reduce the amount of undelivered mail we receive.

Additionally, IRS is testing the use of "address hygiene" software to purify addresses to improve delivery. The purification process insures the consistency of city, state, and Zip code information within an address and, in effect, corrects any data transcription errors.

TAXPAYER ADVOCATE'S COMMENTS:

Although Taxpayer Service has asked Chief Counsel to revise Revenue Procedure 90-18 to allow updating taxpayer addresses from third party sources, no significant actions have yet been taken. Taxpayer Service has indicated a need to review the results of tests to reduce the amount of undeliverable mail before developing uniform procedures for processing it. We still view this as an area of concern that needs continued attention and will continue efforts with TPS to review test results and to determine appropriate actions.

L3. Develop and Test Change of Address Turnaround Notices

Responsible IRS Official: Chief Taxpayer Service

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INCOMPLETE

Initial action plan called for the redesign, refinement, testing, and assessment of effectiveness of turnaround notices to be completed by September 1995. A March 1995 status report modified some action items and target dates. A December 1995 status report advised that prototype testing of redesigned balance due Notices 501, 502, 503, and 504 was to begin January 1996. "In conjunction with this effort, the ability to include change of address information on these notices, or whatever method is feasible, will be determined at the time of implementation."

CHIEF TAXPAYER SERVICE'S RESPONSE: CLOSED

Testing of the redesigned Notices 501, 502, 503, and 504 has been completed. During the test, the change-of-address information was added. When the final product was extracted, the change of address information interfered with the bar code, which contains coded data about either the taxpayer's address or enclosed tax data. Because of insufficient space on the notices, we cannot effectively include change-of-address information on them.

TAXPAYER ADVOCATE'S COMMENTS:

The redesigned notices 501, 502, 503, and 504 intentionally contain far less text and far more white space than the previous designs, in order to simplify the forms and make them more easily understood by taxpayers. Despite that worthwhile goal, I believe that the change-of-address information could be accommodated on a redesigned form. I will ask that the Chief Taxpayer Service reconsider that decision and include a member of my staff in those deliberations. For this reason, I consider the status of recommendation L3 to remain "IN PROCESS."

L5: Revise Revenue Procedure 90-18

Responsible IRS Officials: Chief Counsel (primary)

Chief Taxpayer Service (secondary)

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INACTIVE

Chief Counsel is waiting for completion of LKA recommendations S1 and L13. Other closed LKA recommendations impact revision of Rev. Proc. 90-18: S5 and L12. Counsel has developed a draft revision that incorporates S5 actions, and will incorporate others when completed by Chief Taxpayer Service.

CHIEF COUNSEL'S RESPONSE: IN PROCESS

L5 specifically provides that, after recommendations S1 (Legislative Proposal to define last known address), S5 (Standardize procedures Servicewide for accepting oral testimony during case contacts), L12 (Process addresses from applications for extension of time to file), and L13 (Process addresses from Form 8453, U.S. Individual income Tax Declaration for Electronic Filing) are implemented, Chief Counsel will revise Rev. proc. 09-18 C.B. 491, to reflect changes in law and administrative procedures.

As of this date, only S5 (regarding oral statements during case contacts) has been implemented. CC:DOM:IT&A opened a publication project to update Rev. Proc. 90-18 to reflect this change in the Service's administrative practice which permits taxpayers to provide oral notification of change to the taxpayer's address of record for active accounts and address perfection.

The revision of Rev. Proc. 90-18 to reflect S1 and L13 will be treated as a separate publication project(s), when and if, S1 is adopted and/or L13 is implemented. L12 will not be implemented. Thus, address changes will not be made from applications for extension of time to file.

We drafted a proposed revenue procedure which permits taxpayers to provide oral notification of a change to the taxpayer's address of record. The proposed revenue procedure provides that oral notice of change of address I accepted only for active accounts (e.g., a current examination, an account or adjustment inquiry, an undelivered refund, or current correspondence from the Service) and address perfection (i.e., the correction of misspellings and the addition of house and apartment numbers).

On July 14, 1995, our office briefed the Associate Chief Counsel (Domestic) on the proposed revenue procedures. She had asked that we determine if the Service wants this revenue procedure published since it is limited only to active accounts and address perfection. We informed the Commissioner's staff of the Associate's request. In order to include this publication project in IT&A's 1997 Business Plan, the Service must determine whether there is a critical need for this project and whether oral notification from cold calls (i.e., calls where the only action requested is a change of address) should be accepted.

CHIEF TAXPAYER SERVICE'S RESPONSE: IN PROCESS

Chief Counsel was tasked with revising Revenue Procedure 90-18 but was waiting for the Submission Processing organization to complete recommendations S1 (Complete a business case to determine the correct and appropriate time frames for processing address changes from notifications and from tax returns) and L13 (Conduct Cost/Benefit Analysis of Processing Addresses from ELF Forms). As stated above, the business case for Recommendation S1 has not yet been completed; this will be completed on an expedite basis. However, the cost/benefit analysis for Recommendation L13 has been completed, and on July 10, 1996, Chief Counsel concurred with our decision not to post address information from taxpayers' Forms 8453 to the Master File. Additionally, the National Director, Multimedia Production Division, asked Chief Counsel to revise Revenue Procedure 90-18 to allow IRS to update taxpayer addresses using third party sources.

TAXPAYER ADVOCATE'S COMMENTS:

See my comments under recommendations S1 and L13 above.

EXPAND STANDARD ADDRESS CHECK PROGRAM CZALL TO VALIDATE FOREIGN ADDRESSES

Responsible IRS Officials: Chief Taxpayer Service (primary)
Chief Compliance Officer (secondary)

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INACTIVE

An initial action plan called for development of RIS by August 1995 and implementation by July 1996. A November 1995 status report stated Taxpayer Service is waiting for "a detailed list of the specific items required and wanted by International and upon receipt a RIS will be prepared to write the suggested International CZALL program."

CHIEF TAXPAYER SERVICE'S AND CHIEF COMPLIANCE OFFICER'S RESPONSE: IN PROCESS

Customer Service will coordinate with the Assistant Commissioner (International) to develop a detailed list of requirements for validating foreign addresses. Due to current budget considerations and reduced funding for TSM, the feasibility to expand the current address field to properly validate foreign addresses must be coordinated with the Information Systems staff. Customer Service will provide your office with a report containing the decision on this proposal shortly.

TEXT OF CUSTOMER SERVICE'S REPORT:

CZALL currently has in place a format routine that allows for the proper formatting for a foreign address. This format routine is also used for domestic addresses. When entering a foreign address into the system, the street address, foreign city, province or country must be in the proper fields before we make an update to the master file. If this data is not in the proper fields, the system immediately rejects the input data, and the system informs the operator of an incorrect format error.

Due to current budget limitations and reduced funding for Tax Systems Modernization, it is not in the best interest of the Service to continue this initiative to create foreign country codes. Foreign country codes are "nice to have" features for our systems; however, it will not increase the ability to get the mail to the correct street address (Domestically or Internationally).

TAXPAYER ADVOCATE'S COMMENTS:

While the current address check program, CZALL, will allow the input of a foreign address, it does not validate foreign addresses. Instead, proper formatting of foreign addresses, including the input of the required period (.) in the state field, suppresses the CZALL routine that would otherwise reject the foreign address as if it were an invalid domestic address.

The intent of recommendation L8 is to expand the use of CZALL to validate foreign addresses, through the use of tables of valid names or abbreviations of foreign countries, provinces, cities, and postal codes, much like the tables of valid state abbreviations, city names, and their related ZIP codes currently used with the program. Implementation of this recommendation would go far toward addressing the problem of foreign mail that is undelivered because of misspelled or improperly formatted city, province, and country names and abbreviations, and incorrect postal codes.

While budget limitations may be a valid reason for not implementing this recommendation, no information was provided in the EOCSO's report about the estimated costs of developing and maintaining such tables, nor was a comparison provided of those costs versus the costs in lost revenue to the government and in additional processing for Service because of undeliverable foreign mail. I still consider the status of this recommendations to remain "IN PROCESS."

L9. Improve and Expand the Use of Job Aid, Document 7475, State Abbreviations, Major City Codes, and Address Abbreviations

Responsible IRS Official: Chief Taxpayer Service

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INACTIVE

Taxpayer Service status report stated Doc. 7475 was revised but our review shows that foreign country names and address field lengths were not included as recommended.

CHIEF TAXPAYER SERVICE'S RESPONSE: CLOSED

Document 7475 was revised in June 1995 and again in September 1996. Additional domestic ZIP code and major city code data was included. We expanded the use of this job aid by providing for its distribution through the three Centralized Inventory Distribution (CID) sites. The document is also available at the ten service centers. Page 31 of Document 7475 (Rev. 9/96) contains an acceptable address format for foreign addresses that our current ADP system can handle.

TAXPAYER ADVOCATE'S COMMENTS:

The text appearing on page 31 of the September 1996 revision of Document 7475 referenced by the Chief Taxpayer Service above is as follows:

Foreign Addresses

The street address in foreign addresses on IMF accounts is input on Name Line 2. On BMF accounts, the street address in foreign addresses is input in the field designated for foreign addresses.

Input the foreign city, province or country and foreign postal code in the street address field.

Input foreign country in the city field. This must not be abbreviated.

Input a period (.) in the state code field.

Taxpayer Service considers this recommendation closed, although foreign country names and address field lengths were not included in the revised job aid as recommended. While there may be valid reasons for not implementing this part of the recommendation, we need to follow up with Taxpayer Service to review those issues. I still consider the status of recommendation L9 to remain "IN PROCESS."

L10. Create One Uniform Entity Address Document/Handbook

Responsible IRS Official: Chief Taxpayer Service

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: INCOMPLETE

The LKA study group considered alternatives for revising existing IRMs to make them consistent or for creating a multi-functional entity address handbook. Based on internal stakeholder input, the latter approach was agreed upon and approved. Initial action plans called for completion of the handbook by January 1996. A December 1995 status report from Taxpayer Service states: "After stakeholder meetings, it was decided that a uniform document/handbook was not necessary nor preferred by customers. Action Plan Completed."

CHIEF TAXPAYER SERVICE'S RESPONSE: IN PROCESS

The EOSCO will shortly provide your office with a report containing his decision and rationale regarding the implementation of this proposal.

TEXT OF THE EXECUTIVE OFFICER FOR CUSTOMER SERVICE OPERATIONS' REPORT:

We conducted a feasibility analysis and our analysis indicates that the implementation of this recommendation would not be beneficial to all areas of the Internal Revenue Service. Our analysis indicated a consolidated Entity document/handbook will not meet the needs of internal customers because entity information is necessary in many Internal Revenue Manuals (IRMs). However, we have consolidated entity address information into one handbook for the Customer Service Operations.

Customer Service Operations Division recently completed the creation of several new Chapters of IRM (21)00. Two of the new common chapters of this handbook for the Customer Service Operations are entitled "Entity Changes" and "Business Master File Tax Issues." This IRM consolidates entity information.

We conclude that Recommendation L-10 is not beneficial for all areas of the IRS and should only be implemented as stated for Customer Service Operations.

TAXPAYER ADVOCATE'S COMMENTS:

While the new Customer Service Operations IRM chapters cited above contain some of the information recommended for inclusion in the multi-functional handbook (e.g., guidelines for accepting oral statements of changes of address, instructions for updating addresses on joint accounts of divorced and separated taxpayers, etc.), they do not contain all of the recommended information.

The purpose of the recommendation was to ensure that consistent and uniform address format instructions are provided to all IRS personnel, not just those in the Customer Service organization. Customer Service's rationale for concluding that creation of a multi-functional entity address handbook "is not beneficial for all areas of the IRS" is not made clear in his report, and details of the "feasibility analysis" conducted by his office have not been reviewed by my office. I still consider the status of recommendation L10 to remain "IN PROCESS."

L11. ENSURE IMPLEMENTATION OF LAST KNOWN ADDRESS STUDY RECOMMENDATIONS

Responsible IRS Official: Taxpayer Advocate

TAXPAYER ADVOCATE'S JULY 1996 COMMENTS: IN PROCESS

After August 1994 approval by the Deputy Commissioner, progress of implementation was tracked by the Taxpayer Advocate via the Commissioner's Tracking System (administrative predecessor to the TBOR2-mandated Commissioner's Reporting System) and monitored by a series of status requests from responsible executives and status reports to the Executive Committee. In July 1996, in anticipation of the enactment of TBOR2, the Taxpayer Advocate orally requested status reports on each recommendation, and began tracking them in the Commissioner's Tracking System, to be reported on until closure or implementation in the Taxpayer Advocate's annual report to Congress.

TAXPAYER ADVOCATE'S RESPONSE:

All open LKA recommendations have been entered into the "Commissioner's Reporting System" and will be monitored and reported on until closed in the Taxpayer Advocate's Annual Reports to Congress.

Questions on the Taxpayer Advocate's 1996 Report on the Twenty Most Serious Problems Facing Taxpayers From Representative Coyne to Lee Monks

1. COMPLEXITY OF THE TAX LAW.

The Report lists tax law complexity as the single most burdensome aspect of compliance for most taxpayers. It does not specify what specific tax provisions are particularly complex, nor which specific tax provision should be simplified.

What specific tax provisions should the Congress simplify to make taxpayers' compliance with the tax laws easier?

EXAMPLES OF PROVISIONS THAT CONGRESS COULD SIMPLIFY ARE:

- Employee independent contractor—the IRS needs the ability to apply clear and uniform standards.
- Taxability of Social Security Benefits—requires a complex computation to determine the taxability, again is targeted to a segment of the populations that may require assistance in computing.
- Depreciation—Laws on depreciation are complex and continually changing so that taxpayers find it difficult to determine the correct computation.
- Alternative Minimum Tax—Complex only applies to a limited number of taxpayers

In your Report, you suggest that all new tax legislation should be "scored for taxpayer burden" similar to that done for revenue. What would this accomplish within the IRS and Treasury?

- This would assure that complexity is focused on whenever legislation is considered.
- Scoring legislation for taxpayer burden in itself may not do anything unless it causes Congress to pass laws with low scores.

2. INABILITY TO READILY ACCESS IRS BY TELEPHONE.

The Report states that, in fiscal year 1996, less than half of the taxpayers calling the IRS's toll-free number got through (i.e., 100 million calls made; 40 million answered).

As the Taxpayer Advocate, what percentage of calls do you think the IRS should answer?

- While the Service should strive for nothing less than 100%, the Taxpayer Advocate believes that the IRS could develop reasonable customer service standards that are comparable to those used in private industry (airlines, credit card companies, etc.).

What percentage of taxpayers' calls are currently being answered?

- According to Customer Service's snapshot report, the IRS level of access for Fiscal Year (FY) 1997 was 67%.

In recent years, the IRS has only been funded to answer 30–40 million calls. Should this amount be doubled for fiscal year 1998?

- The IRS' Strategic Plan through FY 2002 states that we will provide an 80% level of access for taxpayers telephoning the IRS. Funding for toll-free could be increased. However, a long-term solution to this problem lies in reducing the demand for toll-free service by reducing the causes of taxpayer calls. Many taxpayer contacts are due to such factors as the significant number of incorrect or incomplete notices and misapplied payments. While there may be no "quick and easy fix" for these problems, the Taxpayer Advocate would rather increase funding aimed at correcting those problems rather than simply placing more employees on the phones. This is not to say that additional phone and walk-in access is not needed. A significant portion of any new funding should be devoted to training so that those employees who are put on the front lines have the knowledge and the tools to properly assist the public.

3. LACK OF CLARITY AND INAPPROPRIATE TONE OF IRS COMMUNICATIONS WITH TAXPAYERS.

The Report only generally discusses the need for clearer/ friendlier notices.

What specific notices do you consider particularly confusing and/or unnecessarily nasty?

- Generally erroneous computer generated notices are a problem.

Why is it that the IRS can't seem to develop and use clear notices?

OUTSIDE STAKEHOLDERS HAVE STATED THE FOLLOWING CONCERNING IRS NOTICES:

- Verbal and written communications contain jargon not easily understood by the average taxpayer.
- Frequently, notices do not provide an adequate explanation of the reason for the communication.
- IRS communications take the same tone and approach toward complying taxpayers as those toward taxpayers with a background or history of noncompliance.
- The subject matter is complex because of the complex law.

A recent Association of Certified Public Accountant (AICPA) survey found that IRS notices do not adequately explain the "basis for tax adjustments, penalties and interest." Do you agree?

- While there may be some notices that do not adequately explain the basis for tax adjustments, penalties and interest, many IRS notices do clearly and adequately explain these. In fact some of these notices, such as the CP 2000 are often criticized due to their length because of the effort to fully explain all aspects of the notice.

Could your office undertake to fix the content of taxpayer notices?

- Notices are constantly reviewed and revised. We believe it should be the responsibility of the initiator (the office with program responsibility) to produce an acceptable product. We can provide input to the process but our involvement should not go beyond that point. Additionally, to "fix" a notice one must have a complete understanding of the programs and their problems. It is also important to note that depending on who is consulted (an individual taxpayer a corporate taxpayer, a practitioner, Certified Public Accountant (CPA), attorney) the perception of a notice varies. A "fix" for one group could result in a problem for another. The IRS must balance this when revising notices. Also the current ability to fix notices is partially limited by current computer systems.

4. ERRONEOUS IRS NOTICES.

The Report states that the IRS's communications with taxpayers are often inaccurate and unnecessary.

Which IRS notices are the most problematic?

- Math Error notices are often problematic because frequently the description of the error does not give the taxpayer sufficient information to identify the error. This, in turn may generate a telephone call requesting an explanation.

What kind of errors does the IRS make in its notices?

- The IRS sometimes sends Erroneous Notices to taxpayers because of programming errors. For instance earlier this year, the IRS sent notices to Schedule H filers who no longer were required to file forms 940 nor 942. Another example is apparently conflicting information such as the current CP 523. This notice tells the taxpayer that they defaulted their installment agreement and they must pay the outstanding payment to reinstate the agreement. It also lists Appeal rights and the complete balance owed on a tear-off section of the notice. Taxpayers do not understand the desired action: pay the entire balance or the installment payment. Also, recently a computer programming problem sent unnecessary yearly reminder notices to a certain class of taxpayers whose accounts were in 'Currently Uncollectible Status'. Other erroneous notices may be generated because of the lag in computer time for a transaction or adjustment to post to the Masterfile. Some erroneous notices are generated as the result of incorrect actions taken by IRS employees.

About how many erroneous notices does the IRS mail out each year?

- There are no available figures for the numbers of erroneous notices sent to taxpayers each year. However, many of our Problem Resolution Program (PRP) cases and contacts from both tax practitioners and Congressional offices are based, at least in part, on an incorrect or misleading notice received by a taxpayer.

5. DIFFICULTY IN UNDERSTANDING FEDERAL TAX DEPOSIT REQUIREMENTS.

In what ways are the Federal tax deposit rules difficult for taxpayers?

- The complexity of determining what category their payroll falls into (Look Back Rule) and the deposit requirements sometimes discourage small business taxpayers from hiring employees.

Are the deposit time rules too difficult, and/or the forms required to accompany the deposits too complex?

- The deposit rules seem difficult and confusing. Also the dollar amounts for the monthly and semi weekly deposit requirements may be too low. We are in the process of reviewing whether an increase in amounts for both periods will simplify the process for some taxpayers. However, we should note that deposit rule changes in recent years have materially reduced the number of PRP cases in this area.
- Electronic Federal Tax Payment System (EFTPS) should eliminate many of the problems that the taxpayers had with the FTD forms; The FTD forms tended to be susceptible to taxpayer error because of the format (e.g., placement of the type of form and tax period etc.)

6. COMPLIANCE BURDEN OF SMALL BUSINESSES.

What percentage of your cases involve small business versus individual taxpayer problems?

- The Taxpayer Advocate's management information system does not capture the size of the business when identifying the type of case according to problem description. However, about one quarter of our cases are businesses and we believe that most of these are small businesses.

What is your office's priority in assisting small businesses?

- The Taxpayers Advocates office has been working with the Small Business Affairs Office within IRS to ensure that cases that are identified by the 10 Small Business Fairness Boards as meeting PRP criteria will be handled within the Problem Resolution Program.
- As the result of recent focus group interviews, sponsored by the Taxpayer Advocate, with small business taxpayers we have identified some education needs of these taxpayers and will be providing feedback to the IRS Taxpayer Education program.

7. PROBLEMS IN THE ADMINISTRATION OF PENALTIES.

About six years ago, the oversight Subcommittee developed, and the Congress enacted into law, legislation which simplified and rationalized the various tax penalties applicable to individuals. The Report makes two legislative recommendations in the penalty area: (1) to simplify the computation and assessment of the "estimated tax penalties," and (2) to eliminate the "failure to pay penalty."

Which tax penalties cause taxpayers the most trouble?

- The FTD penalty (failure to deposit/late deposit) and the estimated tax penalty (for failure to pay sufficient tax) are in our estimation the two penalties that cause the greatest problems for taxpayers. There are 6.4 million quarterly Form 941 filers, with over 25 million returns a year (and chances for error). Due to notices that are generic in nature and errors by both the Service and taxpayers in the application of payment, it is often difficult for taxpayers (and the Service) to determine which payments are causing a problem. The burden caused by the estimated tax penalty is due, in large measure, to the complexity in computing several of the exceptions to this penalty.

Is the problem that the penalties are unfair?

- The problem with most penalties is not that the penalties are “unfair,” but that they are very complex and that the abatement of those penalties is complicated and inconsistent. One area in which a penalty could be administered more consistently is the tolerances for application of the estimated tax penalty. While IRS applies a tolerance (i.e., the amount below which a penalty would not be asserted) in assessing a penalty, no tolerance amount is published for taxpayers who “self-assess” penalties (estimated tax penalties for individuals) and computes their penalty on Form 2210, as they are asked to do. This leads to the inequitable treatment of the taxpayers who comply, while giving a benefit to many taxpayers who do not. Also, previous compliance history is rarely taken into account in the application of many penalties on individual taxpayers. While “first time offenders” are often given consideration in the abatement of certain penalties (primarily in the employment tax area), very few individual taxpayers receive this consideration because Congress has not provided a reasonable cause exception.

Is the problem that penalty notices are confusing and not adequately explained by IRS?

- Penalties are sometimes poorly explained by IRS notices or not explained at all. Often, if a taxpayer contacts the Service seeking information about a penalty, they will be provided a very good explanation. An example of this is the PINEX (Penalty and Interest Notice Explanation) notices, sent to taxpayers who request a clarification of their federal tax deposit application and/or penalties. I believe that taxpayers should not be required to ask for an explanation of a penalty. Clear explanations should be provided to taxpayers when a penalty or tax change is proposed.

How should the “estimated tax penalties” be simplified?

- The problem is not so much the estimated tax penalty, but the system for figuring an exception to the penalty. One possible solution would be to eliminate the penalty entirely and charge market rate interest on all underpayments. However, this is a two-edged sword, since some of the complexity is of benefit to some taxpayers. Another simplifying option is to apply a flat percentage of the underpayment rather than computing the penalty quarter by quarter. I will propose to the Commissioner that taxpayers who “self-assess” should be given the same tolerance amount as is applied to penalties assessed by the Service. No Form 2210 should be required, and no penalty assessed, for underpayments below a certain amount.

Why do you recommend that the “failure to pay penalty” be eliminated?

- Rather than completely eliminate the penalty, the penalty should be reduced if that taxpayer agrees to an installment agreement and remains current for a specified period or until the balance due, with interest, is paid in full. Additionally, the complexity of assessing (and sometimes abating) this penalty could be eliminated by simply charging a flat rate of interest, which, in theory, require a taxpayer to pay the same amount.

8. LACK OF UNDERSTANDING OF TAXPAYERS’ CONCERNS.

The Report states that the IRS does not fully understand taxpayers’ concerns with regard to tax administration. Since 1992, the IRS has conducted five customer satisfaction surveys regarding individual taxpayers.

What were the results of the IRS’s five customer satisfaction surveys?

- Summarize the findings of these surveys:
—These respondents expect to be treated professionally, fairly, and reasonably. There is a prevailing mistrust among respondents that a government bureaucracy is able to provide this.

—They recognize that the time required to resolve problems varies. They expect a realistic estimate and to be notified of unforeseen delays.

—They also recognize that the frequency of periodic updates varies with the complexity and seriousness of the problem. They expect individual need to be considered.

—Because of their distrust of bureaucracy, they expect all communications and actions to be backed up in writing.

—They expect that once resolution is reached, it will be effected Servicewide.

—They expect that penalties and interest will stop accruing, and that communication from other IRS functions will cease while the problem is being resolved in PRP.

—They expect to deal with a single contact person who is competent and will thoroughly analyze the problem. In order to do this, (they believe) the person must have access to all files, records, and information that have been previously generated regarding the problem.”

What is it that IRS employees fail to understand about taxpayers’ concerns?

- The Restructuring Commission’s Report states: “Both internal and external forces foster an environment in which employees value rules over outcomes and do little to encourage the use of judgement in handling taxpayer problems.”

- The IRS response to the Commission field hearing findings re: customer service stated: “Even when the taxpayer responds timely . . . there is no certainty the IRS is aware of the contact . . . there is no one caseworker assigned to most IRS notices. When names and numbers of IRS personnel are given, the person may not be reached. This further frustrates and angers taxpayers.”

- Previously IRS did not do a good job of conveying taxpayer’s concerns to all employees. We are a segmented organization in some areas and employees working in some of our functions are not as sensitive to taxpayer concerns as other employees.

9. DELAYS BY IRS IN COMPLIANCE CONTACTS.

The Report discusses how the IRS does not contact taxpayers about problems on their returns (e.g., unreported income or overstated deductions) for one to two years after their returns have been filed.

Why is it important that the IRS contact a taxpayer about an error or discrepancy on their tax return the same year the return is filed.

- Taxpayers will tend to remember the background of the information that is not claimed on a return and are usually able to document a legitimate deduction or credit on the most recent return the same year as the return is filed. A year or two later the this information may not be clear or available.

- Taxpayers may not be reachable after a period of time because of relocation, death or business failure.

- Any additional tax owed as the result of these compliance programs will accumulate penalties and interest on the underpayment until it is paid.

What interest rate do taxpayers have to pay in each year the IRS delays in contacting them about problems on their tax returns?

- Internal Revenue Code (IRC) Section 6621 states the rate of interest on underpayments of tax shall be the sum of:

—The Federal short-term rate determined for the first month of a quarter plus 3 percentage points.

This rate is subject to change on a quarterly basis; therefore in the case of individual income tax interest will be assessed and accrue on an underpayment from the due date of the return to the date paid. The interest will be computed at the quarterly rate for each quarter that a balance is owed. Interest will also be compounded daily pursuant to IRC 6622.

10. PROBLEMS IN DETERMINING AND MAINTAINING TAXPAYERS’ CURRENT ADDRESSES.

The Report discusses how taxpayers often never get IRS audit or tax delinquency notices, and only later find out that a lien has been filed on their property or that a levy has been filed on their wages by the IRS.

If taxpayers notify the IRS that they have moved, can they be assured that all future IRS contacts will come to their new addresses?

- If a taxpayer *formally* (i.e. use the designated form) notifies IRS that they have moved, they should receive all future IRS contacts and mailings at their new address.

Why it that some IRS divisions and offices will have a taxpayer's correct address and other will not?

- Functions within IRS that deal with only one aspect of an account may not have the information in their files updated when the masterfile computer system is updated. If the employee working the case is not aware of the address change, information may be sent to the taxpayer's old address. This can also work in reverse. When the taxpayer informs the IRS employee working the case of an address change (and the employee uses the new address only for the case-related correspondence and does not enter the change into the computer), future notices and mailing may go to the incorrect address. Again this is partly the result of IRS's antiquated computer systems.

If an IRS letter is returned to the IRS by the post office as "undeliverable," what happens?

- Undeliverable mail is treated differently depending on the type of mailing. Letters are usually returned to the function that is attempting to contact the taxpayer where further address research is performed. Certain notices that are sent certified, such as a Statutory Notice of Deficiency, are attached to the taxpayer's original return if the Service is unable to ascertain a new address after further research. The IRS searches for a new address for account related notices. However, informational notices will simply be destroyed.

Will the post office forward IRS mail to a taxpayer's new address?

- Generally, account-related correspondence, which is mailed first class, will be forwarded if the taxpayer has left a forwarding address with the Post Office. Tax Return Packages are not forwarded because they are mailed using "bulk" rates and "forwarding" service (at extra cost) has been found to be costly.

11. COST OF TAXPAYERS OF ELECTRONIC FILING.

In 1993, the Taxpayer Advocate reported that "low-income taxpayers incur disproportionately higher costs in using electronic filing to get quick refunds." In raising the issue with the Commissioner as an "ethical concern," the Taxpayer Advocate advised the Oversight Subcommittee that the IRS would offer free access to electronic filing for low-income taxpayers, as resources permitted.

The 1996 Report states again that the cost of electronic filing is an unfair burden to low-income taxpayers. Further, it states that the IRS processed about 50,000 electronically-filed returns, free-of-charge, in IRS walk-in offices.

In which IRS offices can taxpayers currently get free electronic-filing of their returns?

- It is our understanding that free electronic filing is available in some IRS local offices, but that due to budget constraints, many other offices do not offer this service. Also, the Service is offering free electronic filing through the Volunteer Income Tax Assistance (VITA) program. The Taxpayer Advocate's office does not currently have a list of the specific local offices or VITA sites in which free electronic filing will be available for the coming filing season.

Overall, what percentage (or number) of electronically-filed returns involve the earned income tax credit (EITC)?

- Of the approximately 19 million electronically filed returns, about 4 million (or about 21 percent) claim the EITC.

Is \$25-\$35 the typical charge for filing a return electronically, including an EITC return?

- The price range for filing returns electronically varies greatly. Some Electronic Return Originators (EROs) provide electronic filing for free to individuals who have their returns prepared by the ERO. Others charge nominal fees for the same service. On-line providers offer free fill-in software and charge \$4.95 for electronic filing. Other practitioners will file a self-prepared return electronically for additional costs.

To what extent have you been successful in utilizing private sector efforts to provide free electronic filing of returns (e.g., H&R Block has advertised free electronic filing in various markets)?

- H&R Block is not the only tax preparation firm to offer free electronic filing. In addition to office preparation, several firms are offering free on-line filing for the 1998 filing season. Also, some software preparation companies have partnered with transmission service providers to offer a product which allows a taxpayer to file an electronic return at the same cost as a paper one.

Specifically, how should the IRS follow up on your recommendation that the IRS “offer low or no-cost methods to encourage the use of electronic filing” (e.g., a tax credit for electronic filing or more free electronic-filing sites at IRS offices)?

- My office supports a number of the Service initiatives to encourage electronic filing. The Service is increasing access to free electronic filing at a greater number of walk-in and VITA sites. The Electronic Tax Administration (ETA) Request for Proposal (RFP) contains a number of alternatives that would enhance the use of electronic filing. The TeleFile program allows taxpayers to file simple returns using a touch-tone telephone. TeleFile holds the promise of simplifying filing for a large number of taxpayers and should be aggressively pursued by IRS. However, my office has expressed serious reservations about the lack of tax forms, the tax tables, the Earned Income Tax Credit (EITC) tables, or complete instructions in the TeleFile package that is mailed to taxpayers. Currently, TeleFile simplifies filing for those taxpayers who are willing and able to use it, while adding complexity for the majority of those sent these packages who end-up filing on paper.

With the “refund anticipation loan” (RAL) program, a bank files a taxpayer’s return electronically and gives the taxpayer the refund amount “on the spot” as a loan. The loan is paid off several day/weeks later upon direct deposit of the refund check to the bank by IRS electronic fund transfer. What percent the RAL participants are low-income taxpayers, about 95%? What is a typical charge for a RAL, about \$75? What effective annual interest rate are RAL participants paying in their loans, between 100%-300%? (e.g., \$75 charge for a \$500 refund)

- My office has no specific figures on the percentage of Refund Anticipation Loan (RAL) participants that are low income filers or the typical fees or effective interest rates. However, many low income taxpayers are paying what appear to be excessive charges. Even if the number of taxpayers paying these large fees were to be small, my office is concerned about the potential inequity. It appears to many taxpayers that the Service, which is not a party to the loan, is sanctioning this financial transaction. Unfortunately, these taxpayers look to IRS for relief if there is a problem. If nothing else, the Service could require stricter “truth in lending” rules to help taxpayers avoid the most expensive RALs. The Service has put forth certain rules mandating that these be referred to as “loans,” instead of accelerated refunds, which could eliminate some of the confusion in the minds of taxpayers.

12. PROBLEMS IN THE ADMINISTRATION OF THE EARNED INCOME TAX CREDIT.

In 1993 and 1996, the Taxpayer Advocate reported that (1) low-income taxpayers need additional assistance in claiming and understanding the complexities of the earned income tax credit (EITC), and (2) the IRS has an obligation to ensure that taxpayers eligible for the credit are made aware of it and receive it. While the IRS’s educational outreach efforts and the volunteer income tax assistance (VITA) program serve the low-income community to some degree, the Advocate is concerned that the IRS is not doing enough. Also, the IRS’s annual “most common error” study continues to show “EITC errors due to complexity” as the most common mistake made by both taxpayers and tax preparers.

Do you believe that the IRS should be available to directly assist low-income taxpayers in preparing their tax returns, as was done in the 1970’s in IRS district offices throughout the country?

- Yes, the Taxpayer Advocate believes that the IRS should directly assist low-income taxpayers.

Is the IRS spending enough from the “volunteer income tax assistant” VITA program to assist low-income taxpayers? How much of the \$3.9 million in VITA program funds is used to help low-income taxpayers? Is this an appropriate level in comparison to the separate \$4.3 million spent on the volunteer Tax Council for the Elderly (TCE) program, targeted to provide “tax counseling for the elderly”?

- The IRS does a good job paying for programs like VITA and TCE, but we believe that as long as there are taxpayers who have questions or are unduly burdened in complying, we are not doing enough.

While about 18 million taxpayers claimed the earned income tax credit (EITC) during the 1995 filing season, how many additional families and individuals do you estimate were eligible for the EITC but failed to claim it?

- Approximately 2 million taxpayers may have been eligible for the EITC for the 1995 filing season. The IRS issued about 2 million notices to taxpayers who did not

claim EITC but who may have been eligible. These taxpayers were then required to respond to the IRS notice to receive the credit.

What percentage (or number) of EITC returns are prepared each year by professional return preparers, about 60%?

- The IRS does not capture this data for EITC filers. However, according to the Submission Processing Branch 35.04% of total returns expecting a refund are prepared by preparers.

Generally, how much does a paid preparer charge for preparation of an EITC return, about \$50?

- The Taxpayer Advocate's office does not have any reliable figures on this.

Generally, how much does it cost a taxpayer to have an EITC return electronically filed, about \$25?

- While our office does not have any reliable figures on this, it is our understanding that the average charge for filing a return electronically has decreased in recent years, although it varies a great deal. The typical tax return preparer may provide this service for \$25 or under.

Does the IRS provide the EITC to eligible families and individuals even if they do not claim the EITC on their return? If so, how does this process work?

- The IRS sends taxpayers a CP 09 (for taxpayers with qualifying dependents) or a CP 27 (for taxpayers without qualifying dependents) to inform taxpayers that they may be eligible for EITC. The taxpayer must then respond with certain information to be granted the credit.

Does the IRS provide the EITC to eligible families and individuals in cases where an employer sends the IRS wage income information (on Form W-2) showing EITC-eligible amounts, but the family or individual has not filed a tax return?

- Because the IRS does not have all of the necessary information (i.e. qualifying child information) to make the determination as to whether the taxpayer is entitled to the EITC, the taxpayer must file a return claiming the EITC. (Even if the return is selected for inclusion in the Automated Substitute for Return (ASFR) program.)

Have you reviewed the EITC form and instructions? If so, how could they be simplified and made easier to understand?

- Yes we have looked at the forms and instructions. The Taxpayer Advocate will pursue several recommendations with the Tax Forms and Publications Division for the Tax Year 1998 forms and publications. Recommendations include combining dependent and EITC information on the tax return and simplifying the Publication 596.

Have you reviewed the substance of the EITC tax provisions? If so, how could it be simplified—both made easier to administer for the IRS, and made easier to apply for taxpayers?

- Many excess EITC claims do not result from fraud or intentional or willful disregard of regulation but from incomprehension. The law is too complex. The dependency and income tests could be based on amounts already shown on the tax return. Also, recently passed legislation adds another level of complexity. We may include recommendations for simplification in the Taxpayer Advocate's December report to Congress.

13. ABATEMENT OF INTEREST DUE BECAUSE OF IRS DELAYS.

The Report discusses how Taxpayer Bill of Rights 2 provides for abatement of interest when an unreasonable error or delay is caused by an IRS employee. This provision was a result of the Taxpayer Advocate's 1993 recommendation for such legislation.

What are some examples of when a taxpayer should be able to have interest charges abated?

- Interest attributable to an unreasonable error or delay by an IRS employee in performing a ministerial or managerial act:
- Interest charges may be abated under "Managerial Act" when an IRS manager makes a personnel decision during the processing of a taxpayers case which delays the processing of that case. For example: a Revenue Agent is sent to extended train-

ing or has extended sick leave and the agent's supervisor decides not to reassign the agent's cases.

- Interest charges may be abated under "Managerial Act" when a delay in the processing of a case is caused by the loss of records. For example: a delay in issuing a Notice of Deficiency, after the issues are discussed with the taxpayer, caused by a clerical employee misplacing the taxpayer's case file.

- Interest charges may be abated under "Ministerial Act" when a procedural or a mechanical act causes a delay in processing the taxpayer's case. For example, a delay in transferring a taxpayer's examination from one jurisdiction to another after both the taxpayer and the IRS agreed to the transfer.

How will your office insure that interest is abated for a taxpayer when the problem was due to "unreasonable IRS error or delay," rather than the taxpayer's fault?

- Our PRP caseworkers receive training in tax law changes at the same time as the front line telephone and walk-in employees. Since we work closely with the taxpayer, on a one on one basis, PRP caseworkers can identify and alert taxpayers to an interest abatement situations. Also, cases are referred to the PRP program where the sole issue is interest abatement either under ministerial or managerial act.

- My staff has been involved with Counsel and the functions to ensure that the Temporary Regulations are clear as to the scope of the Taxpayer Bill of Rights 2(TBOR2) provisions of IRC 6404(e)(1). We reviewed the functional manual instructions to ensure that proper guidance was given to field employees regarding the procedures to follow when interest abatement is requested and that any relevant notices and publications were revised accordingly.

In order to have interest abated due to "IRS error or delay," does a taxpayer have to apply for such relief, or will IRS employees be empowered to offer abatement relief to taxpayers?

- There is a Revenue Procedure that gives guidance on how to apply for relief under the abatement of interest provisions. However, there is nothing in the Temporary Regulations, Revenue Procedure or the Internal Revenue Manuals that prohibits us from abating interest under these provisions absent a request from the taxpayer. The Customer Service Manual states "All IRS employees are responsible for identifying delays due to ministerial acts on work in progress."

Also, the Advocate recommends in his Report that legislation be enacted to provide relief to taxpayers in claiming refunds—even after the 3-year statute of limitations for refund claims has expired—in extenuating situations.

What are problems are created for taxpayers by having refund claims expire after 3 years, and allowing IRS to assess taxes for up to 10 years?

- Payments made prior to the due date of a return are only available for refund or credit to another liability if a return or claim is filed within three years of the due date of the return or two years from when the tax is paid. Therefore, a taxpayer may have a substantial amount of money that is not available to be refunded or offset to another liability yet we are actively pursuing collection for another tax period.

Should the 3-year statute of limitations for refund claims be extended for all taxpayers?

- We are in the process of researching this issue for a possible Legislative Proposal for our FY 1997 report. While we feel it is only fair to allow prepaid credits for taxpayers who do not file within the 3 year statute of limitations to offset to other liabilities which we have ten years from the assessment date to collect, we are concerned that refunding money to delinquent filers may encourage further delays in filing. At a minimum, IRS needs to do a better job of advising taxpayers of this 3 year statute. Most taxpayers may not be aware of this law.

What types of "extenuating situations" do taxpayers have which merit refund claim relief?

- Illness of the Taxpayer, illness and/or death of a member of the taxpayers family, a traumatic experience such as a fire or a natural disaster, divorce, and theft of records are some examples of "extenuating circumstances" that taxpayers may use to request refund claim relief.

14. PROBLEMS IN MAILING FORMS, ESTIMATED TAX VOUCHERS, ETC.

The Report states that the IRS sends about 160 million pieces of bulk mail each year to taxpayers, usually by bulk rate (third class) mail. This process does not provide for the automatic forwarding of mail to a new address or any return-to-sender service.

Are the addresses the IRS uses for routine mailings (e.g., estimated tax return vouchers, tax forms) the most updated addresses available anywhere in the IRS system, or do bulk-rate mailing addresses come out of a separate, outdated data base?

- Most tax forms mailing is accomplished using the “Masterfile” address, which may or may not be the most current address available to the Service. While there is no separate database for these mailings, the Masterfile address can only be updated in certain ways (clearly the Service needs to be sensitive to making incorrect address changes) and may not reflect a new address that at taxpayer includes with correspondence or gives to a collection or examination division employee working a current case. Mailing bulk-rate does not provide for forwarding of the tax packages without an added “forwarding requested” expense.

Which types of IRS mailings, tax forms, or payment vouchers are most likely not to reach the intended taxpayers?

- The “bulk-mailings” (tax form packages, etc.) are probably the least likely to reach taxpayers—especially those who have moved. However, these are not necessarily the mailings that cause the greatest problems for taxpayers. A significant number of cases in the Problem Resolution Program are there, in large measure, due to problems taxpayers experienced receiving account related notices and correspondence.

- With the extremely large number of forms, notices, and correspondence that the Service mails to taxpayers every year, some problems are inevitable. While progress has been made in this area in recent years, the Taxpayer Advocate maintains that more improvement is needed.

15. SEPARATE MAILING OF MATH ERROR NOTICES AND EFFECTED REFUND CHECKS.

The Report implies that IRS continues to send refund checks, which have been reduced by the IRS due to mathematical error, separately from the IRS’s explanation of why the refund amount was reduced. Taxpayers become quite upset when they receive smaller refund checks than they expected, and don’t get explanations at the same time.

About how many complaints does your office get each year from taxpayers concerning refund checks which have been reduced without explanations?

- We don’t have any record of numbers of complaints but the problem is widely acknowledged.

Isn’t there a plan for the Treasury Financial Management Service to insert, in a reduced refund check, a staffer notifying the taxpayer that an explanation for the reduced refund amount is forthcoming?

- Yes, but this still does not tell the taxpayer why the change happened when they receive the check.

16. DELAYS BY IRS IN PROCESSING OFFERS IN COMPROMISE.

The Report discusses taxpayers’ efforts to negotiate reduced tax payments through the offer-in-compromise program of the IRS’s Office of Chief Counsel. One complaint about the program is that the IRS’s Office of Chief Counsel does not resolve the cases (i.e., accept or reject their offers) for significantly long periods of time.

How long should it take for an average offer-in-compromise to be accepted or rejected by the IRS?

- The average offer should be accepted or rejected within six months of the date the waiver of the statute of limitation contained in the offer agreement (Form 656) is signed by the Service. This six month period includes review by the Office of Chief Counsel for the required cases. However, with the increase in the statutory review criteria, a very small percentage of offers in compromise now require a legal opinion. According to the Offer in Compromise statistical information for FY 97 cases, 64% of all offers were completed within the 6 months period. Additionally, the Office of Chief Counsel does not accept or reject offers in compromise, but pro-

vides an opinion regarding the legal sufficiency of those offers involving liabilities of \$50,000 or more.

- It is in the best interest of the taxpayer and the Service for the Revenue Officer to investigate these cases thoroughly to ensure that taxpayers do not have sufficient assets to pay the complete balance owed and the taxpayer can remain compliant for 5 years after the offer is accepted. Revenue Officers must pursue these investigations while remaining current with their other cases. Any shortening of the processing time for these cases will probably require additional resources which are not planned at this time.

17. BURDEN CAUSED BY CASH MANAGEMENT PRACTICES.

The Report describes how the IRS, in order to provide for the most prompt deposit of tax payments, has various systems for having tax payments deposited directly into financial institution “lock boxes,” rather than having the payments sent to the various IRS service centers. Sometimes taxpayers are confused about having their tax forms sent to one IRS address and their tax payments to another.

For individual taxpayers, what is the major confusion they face in dealing with IRS “lock boxes”?

- Adding a new payment form (Form 1040V), which has its own set of instructions, increases the burden on taxpayers who must pay with their return. It also adds one more item to the tax package for all taxpayers, even those who may be receiving a refund. This adds one more area of complexity for all taxpayers. While it may be argued that this constitutes a small added burden, it is the dozens of small items that have been added in recent years that together are significantly increasing the burden of filing a tax return. Also, the Service did not have well-established processes in place to work with third party vendors to resolve lockbox and electronic payment problems.

Will taxpayers be punished by the IRS if they erroneously send tax payments to an IRS service center or district office, rather than to the correct IRS “lock boxes” financial institution?

- At the present time, it is our understanding that there are no penalties or “punishment” for individual taxpayers who erroneously send a tax payment to a service center or district office rather than to the designated lockbox financial institution.

18. LACK OF ACKNOWLEDGMENT OF TAXPAYERS’ SUBMISSIONS AND PAYMENTS.

The Report discusses why taxpayers become frustrated when they send money or answer questions as a result of IRS notices, and the IRS never acknowledges or confirms the taxpayers’ responses. For example, if the IRS sends a taxpayer a notice making adjustments to his or her tax return (thus, demanding an explanation of the discrepancy or payment of additional tax), the IRS never lets the taxpayer know whether the explanation is acceptable and/or the tax payment has been received, or most importantly, that the case is closed.

What types of responses do taxpayers deserve from the IRS after they have sent the IRS tax payments the IRS has demanded, or after they have supplied the IRS with the information requested?

- Taxpayers deserve a response or acknowledgment that tells them that they do, or do not, need to take further action to resolve an open issue with IRS. Currently, taxpayers are often left waiting and wondering if their problem is resolved or if IRS will contact them seeking further information or payment.

What specific recommendations does your office have to deal with this fundamental customer service problem?

- The Service should acknowledge all payments, including those sent with returns and acknowledging the closing of a case or completion of any action. Taxpayers who are being audited generally receive a “no-change” letter if their case is closed without additional tax due. Taxpayers who have other dealings with IRS, such as service center account inquires and math-error notices, have the right to the same courtesy. Providing this type of notification to taxpayers would have the added benefit of reducing the telephone calls and written correspondence that the Service receives from taxpayers asking about the status of their case or payment. This should be done even if it goes against the effort to reduce IRS notices.

19. LACK OF NON-STOP SERVICE.

The Report outlines how taxpayers often need to talk to three or four different IRS employees to get a relatively simple tax problem resolved.

Are there any IRS offices where a taxpayer can get a satisfactory conclusion of a tax problem during the taxpayer's first contact/inquiry of the IRS?

- Often the Service can resolve a taxpayer's problem during the first contact. Many issues are within the power and ability of the toll-free (or walk-in) assistors to resolve. Unfortunately, many issues involve greater research capability or more recent data than can be quickly accessed by most Service employees. Many local IRS offices have undertaken initiatives to improve their customer service. For example the Northern California District Compliance functions initiated a system in which local Examination and Collection groups work together to expedite processing cross-functional issues. The Rocky Mountain District Customer Service Site hired additional assistors and initiated several training efforts to ensure that all employees have a comprehensive knowledge of Integrated Data Retrieval System (IDRS).

What specific recommendation does your office have for handling taxpayer inquiries, similar to those available to customers making inquiries of their credit card company, insurance company, or bank?

- Solutions to the lack of one-stop service lie in systems redesign and modernization. Comparisons with credit card and insurance companies are difficult because tax accounts are often far more complex than anything those private company customer service functions are required to deal with. However, the Taxpayer Advocate recognizes two necessities to enhance the Service's ability to provide one-stop service:

- The Service needs to provide updated account information as close to "real-time" as possible to employees. The Taxpayer Advocate is aware that this involves significant funding and modernization issues, and

- The employees provided this enhanced service capability need to receive significantly more training in all phases of Service operation. While making every employee an "expert" in all areas of tax law and account activity, is not possible, every assistor should have the knowledge to address most issues.

20. INCONVENIENT TIMES AND LOCATIONS FOR DOING BUSINESS WITH IRS

The Report states that working taxpayers often find it difficult to do business with the IRS during the hours IRS offices are open (i.e., generally 8:00 a.m. to 5:00 p.m.). It is a particular problem for those needing to go to IRS offices during the regular workday. The Taxpayer Advocate recommends that IRS office and telephone hours be expanded.

Should IRS offices be open earlier in the morning or later in the evening?

- Yes, IRS offices be open outside normal business hours.

What hours and days are a particular problem for taxpayers?

- It may not be convenient for our customers to visit IRS offices, access the toll-free systems, or take off from work for Examination appointments. This is a regular complaint from taxpayers and practitioners. Greater flexibility in setting tours of duty would help avoid overtime costs. The IRS would need to address union concerns, and issues relating to additional costs for security, heating, ventilation, air conditioning, and staffing.

Should the IRS staff its offices more like the U.S. Customs Service (i.e., Customs officials work when flights and shipments arrive, both early in the morning and late at night)?

- IRS offices should be open so that most Americans can access the assistance they need. Wal-Mart and Sears are open convenient hours because they want your business. IRS is not faced with either the competition or the desire to "please" customers. However, the Taxpayer Advocate maintains that the Service has a duty to serve the public. This would entail, at the very least, being open some evenings and Saturdays. During filing season, hours should be extended to include Sundays. Also during filing season, toll-free service should be provided 24-hours a day.

- According to the Report on the IRS: Reinvention, Recourse, Rights, Reform:

1. PROVIDE BETTER TELEPHONE SERVICE

—Increase Hours: To make service more convenient, the IRS will, by January 1, 1998, expand telephone service to 6 days a week, 16 hours a day. By January 1,

1999, the IRS will expand telephone service to 7 days a week 24-hours a day. Currently, a caller can get their questions answered by an IRS telephone representative only 5 days a week, 12 hours a day. Expanding phone service will be achieved by putting more of the current work force on the phones during peak calling periods, using a new national call-routing system to route calls to the next available customer service representative, and forwarding calls to employees in other time zones during late night hours.

2. EXPAND CUSTOMIZED SERVICES

—In 1999, the IRS will begin using new call-routing technology to provide service that is geared to specific customer needs, such as: the sale of a house, retirement, or job change, and multi-lingual service. The IRS will also provide a nationwide hotline for tax preparers.

3. MAKE IT EASIER TO GET ANSWERS

—Expand Office Hours: Beginning in 1998, the IRS will open district offices on Saturdays during the busiest weekends of the filing season.

—Open More Convenient Locations: Beginning in 1999, the IRS will open additional temporary community-based locations during peak season for publications and forms, such as banks, libraries or shopping malls. The IRS will expand the telephone information system so that people can find out when and where they can get help.

Chairman JOHNSON. Thank you, Mr. Monks. I appreciated your testimony and your updating us on what you are doing and some of the systems reforms that you have adopted to develop better data.

One of the things that has always interested me is that it should take a change in the law to get the data that, frankly, you would think a department would need anyway, but I know with the many responsibilities of the IRS it does sometimes take a law to focus that and I am impressed with the progress that you have made in the area of data collection.

However, the goal of the legislation, the Taxpayer Bill of Rights legislation, was to have you come forward with the 20 problems and recommendations for their solution, and while I am pleased to see the variety of things that you have done that are certainly an improvement in the system and your clear focus on taxpayer problems, I would like you to be more specific on problems and solutions, and if you could go through that, I think the idea of a score burden is a good one, but many of the items that are on this list were on the list in 1993 so they are not unfamiliar to you.

Mr. MONKS. Right.

Chairman JOHNSON. I would like you also to go through some of your recommendations to address the problems of complexity and administrative issues that you bring up in your list of 20. So if you could be a little more specific, I would appreciate it, if you could go through the list.

Mr. MONKS. Yes. Do you want me to respond to each of the areas or do you want to address specific questions to each of the areas or how would you prefer?

Chairman JOHNSON. I would like to go through each of the areas to some extent. My vision of this hearing was basically that, and one of the problems for this Subcommittee has been that we do not get specific information about specific problems and we do not have the opportunity to determine whether there is an administrative solution or whether we would need to legislate.

So we do need the more specific information as well as the very valuable general information that you gave us in your opening statement, so if you would just proceed down the list and give us some idea of your thoughts as to solutions.

Mr. MONKS. Yes, if I could, I would like to differentiate somewhat between the two sections in the report. One section deals with the 20 most serious problems that are facing taxpayers. This information was derived primarily from anecdotal input received from taxpayers and input from our Regional Problem Resolution Offices and also our District Problem Resolution Officers. This information was shared with the IRS Executive Committee and Regional Commissioners that have responsibility for the functional systems and we have asked them to provide an update on where they are at in terms of dealing with each of these areas.

One of the problems that I have as a Problem Resolution organization within the Service is that we have a relatively limited amount of staffing, although I believe our staffing is at an appropriate level. Our primary focus in the past year and since the time that the TBOR2 legislation was passed has been to work with the taxpayers to fix their immediate problems, and in some cases, that task has been so overwhelming that that eats a lot of our available time that we might spend on analysis of the problem areas. So I wanted to just provide that focus.

Chairman JOHNSON. I do appreciate that, Mr. Monks. I do want to add, though, that in 1993, one of your predecessors provided the Subcommittee with a list of the 20 most serious problems facing the taxpayers—

Mr. MONKS. And I agree.

Chairman JOHNSON [continuing]. And that list is very close to the list that has come forward. So I do not think that developing the list was really the problem, and so I am interested in what you are thinking about solutions.

Mr. MONKS. Yes. And I wanted to move to the other element now, and the other element is the listing of the top 10 areas for PRP casework. That is where our primary focus has been because that is more than anecdotal information. That is information from our own Management Information System that indicates that these are areas that taxpayers are coming to the Problem Resolution Program with that are actual systemic problems that they are experiencing with the IRS. This is information that we derive directly from our Management Information System and these are the areas that we have been focusing our primary attention to during the past year, up until the time the legislation was passed.

So what we have been trying to focus on since I have been the Taxpayer Advocate or Ombudsman and Advocate is to look at these areas that we know we can quantify the specific number of problems that taxpayers have had in dealing with the IRS, try to identify those that are causing the most problems, and to create what we call advocacy projects out in the field offices where they are more familiar with the specific problems that taxpayers are having.

For example, a task group that we initiated dealing with joint and several liability, the joint return issue, was conducted in the old Southwest Region, now the Mid-States Region, and provided

the impetus for the Service's task force, the larger Service's task force in that area.

The issue of audit reconsiderations has been worked as a project, because as you can see, that is the number one source of PRP casework within PRP and we have made a number of recommendations in that area for the Service to give consideration to in terms of improving that process and, hopefully, eliminating taxpayer cases that are finding their way into PRP.

And again, we have projects that have been initiated as a result of the report and my report back to the Executive Committee on this top 10 area of sources of taxpayer problems coming into PRP that have already been initiated by the Service.

Now, we do not have completed projects in most of these areas but we expect to. We are monitoring the activities and will be following up with the Regional Commissioners to look into each of these areas and, hopefully, will be able to provide more of what you are looking for in the next report to the Congress. Now, I do not mean that as an excuse or anything, but legislation was passed somewhat late in the year, and granted, while these other problems have been known to us and are continuing problems, most of our focus has been in this area as opposed to the other because some of the others are not necessarily areas that I have control over to be able to influence to the degree that I would like to.

Chairman JOHNSON. I do appreciate that, and the strength of your opening statement was setting out how the Department is trying to operate in a way that refocuses it on taxpayers' problems and solutions and this list of 10, I think, will provide the fodder for a year from now when you are before us with the specific problems and specific recommendations.

But since your 20 problems, for the most part, were things that had been identified since 1993, I would hope that you would have some specific solutions for us to recommend. Even in the first item, complexity, I appreciate the fact that your suggestion of scoring burden, and I think that is a very interesting one and I would like to have your input about how we would structure that, on what basis, what factors would we take into account if we wrote a law in that regard.

But on the other hand, can you tell us the three laws that are the most complex and cause the most problems and how we can fix them?

Mr. MONKS. Let me—

Chairman JOHNSON. Or what parts of them are complex?

Mr. MONKS. Let me tackle complexity. One of the things that we have heard from both individual taxpayers and from small business taxpayers as we have done focus groups with taxpayers is that we should leave the Code alone. By continually changing the Code every year, by striving to provide benefits to one group, we sometimes unintentionally penalize other groups.

So for those taxpayers that would like to be able to use their tax return, for example, as a guide in preparing their subsequent years' tax returns, they cannot do that because there are so many changes to the Code. We go through this process every year where the forms are changing and so on. That adds complexity for millions and millions of taxpayers, obviously.

Another specific example that we have and that we have discussed and are looking at in Problem Resolution are the rules for earned income tax credit and dependents. We have slightly different rules for taxpayers that want to claim the earned income credit and claim the dependency exemptions and that causes confusion. Should not those be somewhat more of the same or identical for taxpayer? They are different. It causes confusion, causes questions, and so on.

So there are a couple of specific examples that we have looked at. We have a number of projects that are looking at this right now. We are looking at complexity of forms. We have a task group working within the IRS and my staff is working with that group. We have made a number of recommendations in terms of improving wording on forms that would make it easier for taxpayers to understand. That is a continuing project.

Another thing that we have done as a result of the recent legislation on math error and individual taxpayer identification numbers is to work with the functional areas to ensure that as new processes are developed if taxpayer cases arise that are inadvertently caught up in these areas, that they are handled expeditiously and we can remove as much burden from the process as possible.

When you look at some of the new legislation that has been enacted, and frankly, it is enacted for very good reasons, some of the items that I reviewed this year were very complex and are going to be difficult for many people to understand. It does not mean that it is inappropriate legislation. It is certainly appropriate. But the rules for the adoption credit, for example, are very complex and we need to look at how we might be able to simplify the instructions that will be going out to taxpayers so that they can understand who can claim that credit and what it takes to claim that credit, but that is an area that we—

Chairman JOHNSON. Just if I may, hopefully, when this process gets going, you would be able to report to us at this point what are the complexities of that that are going to be very difficult to implement so that we have a chance to simplify them before we get too far into that process.

Number 12 of your 20 problems is the earned income tax credit, EITC, and you note that it is so complicated that the very people who need to use it have less than average knowledge of the tax laws and need additional assistance in understanding the complexities of this provision, but you have had considerable experience with that now. Are there specific provisions of that that you would recommend that we repeal?

I do not want you to feel inhibited about criticizing the job we did in writing the Tax Code. Frankly, you know what a sort of sausage-making operation it is. The reason we asked for these reports to come from you and not go through the IRS Commissioner, not go through the Secretary of the Treasury is because we wanted to get the straight and raw, and if you do not feel free to say, listen, the way you wrote this is going to make it practically impossible for us to administer and this is what people out there in the real world are faced with and you could dump this section of it or simplify that, then this project will fail.

Mr. MONKS. No. I certainly understand—

Chairman JOHNSON. So to have the list of 20 and have complexity cited but no guidance how to deal with it is really just simply missing the point. This Subcommittee is going to be focusing on small business simplification, so I hope that at a later date you will be able to come back with what you meant by complexity beyond the fact that it helps small business if there is no change. I understand they feel that way now, but we need to move back the other way before we stop making change. At least, that is my interest.

But a number of the things you point out here about the explanation of why your numbers were wrong and you are getting a smaller tax return and the check being in the same envelope rather than a separate envelope so the taxpayer gets it, that is a problem. That has been on the list since 1993. I want you to be recommending a solution.

Now, if there are no solutions, if you have no more detail on solutions than you recommended in your opening statement, you might as well say so rather than go through the 20 items, but I would have to tell you that is not what I expected. As much as I commend you on your effort to move the Department in a new direction, we needed concrete recommendations and I would rather have had you say, I could not get to 20, I did not have time, but here are 10, than just to outline problems, most of which have been known, and not recommend any solutions specifically.

Mr. MONKS. No, and I appreciate your comments. Frankly, you are right on target in that particular area because most of our—again, as I pointed out, most of our efforts with certainly our field staff and even our staff in headquarters has been caught up in the process of trying to work with taxpayers who are having immediate problems and trying to solve those immediate problems and we have not been able to devote the attention to looking at the variety of issues that are negatively impacting on taxpayers, such as the 20 most significant items affecting taxpayers and even the top 10 sources of PRP casework.

We have, I think, renewed our efforts to enhance our advocacy program by enlisting the efforts of our regional offices. I have a relatively small staff in Washington and we can do, and I hate to use this as an excuse, but we have limits with what we can do with the resources that we have. But we do have the availability of the resources from the Regional Commissioners, the District Directors, and so on to be able to ask them to look at the most troublesome areas in their specific region, to be able to look at some actual casework and develop the underlying causes or the root causes of these problems and come in and help us with the development of specific recommendations that can be more helpful to this Subcommittee.

I view this first report to the Congress as a tip of the iceberg type thing. It is the first report out of the box and we had a lot to do in a relatively short time to try to pull the report together and to demonstrate what we had done up to this point.

Mr. COLLINS. Madam Chairman.

Mr. MONKS. I agree with you. We have not made the progress that I would like to have seen us made, but I would expect that subsequent reports, as a result of the activity that we have already initiated and have underway at this point in time, will be much more fruitful in the near future.

Chairman JOHNSON. I thank you, and I am going to give my other colleagues a chance, but I would want to put on the record that I hope the lack of specific recommendations is not the result of concern with what the agency will think.

Mr. MONKS. No, it is not.

Chairman JOHNSON. We specifically had you report directly to us. What you report may not be doable and they may say, well, this will interact with that and we cannot do it, and we may say, it is complex and we like it that way and we will not do it. But if we do not get it out there, no one is accountable. We are not accountable for some of the bad legislating we do and you are not accountable for telling us, and in the end, we get a bad product out there that is almost impossible to administer.

So I do consider this the first time around and the tip of the iceberg, but I would have to say, while it sets out 20 problems, it does not set out any solutions and any material to which we can say, this is administrative and they ought to do this and this is legislative and we had better get ourselves together and do that. It does give us some general guidance and we will use that.

With that, I will yield to my Ranking Member, Mr. Coyne.

Mr. COYNE. Thank you, Madam Chairwoman, and thank you for your testimony, Mr. Monks.

Mr. Kleczka, did you have a question?

Mr. KLECZKA. Thank you, Madam Chairman.

Mr. Monks, you indicated twice the size of your staff. Could you relate to the Subcommittee how large or how small your Washington staff is?

Mr. MONKS. I have 21 people in Washington, DC, Tom and myself in the front office with a couple of secretaries that handle incoming calls from taxpayers and—

Mr. KLECZKA. I just wanted to know the total number. Thanks.

Mr. COYNE. Mr. Monks, one of the complaints that many of us receive is the inconvenient times and locations for doing business with the IRS and my question is, is it your judgment that the IRS offices ought to be open earlier and later for the convenience of people who work, say, from 8 in the morning until 5 at night and who therefore cannot visit the IRS during those hours?

Mr. MONKS. I think, certainly, that would be helpful for taxpayers. I think one of the issues that we are dealing with there, of course, is one of resources and when do we get our primary traffic. Obviously, one of the things that is looked at in both our walk-in offices and our toll-free services is when the highest volume occurs and trying to staff the offices accordingly. Toll-free service is available from 8 until 5 and for the notice-type calls, it is available until 9 in the evening. Obviously, the automated systems are open 24 hours a day.

We are trying to look at ways that we can enhance that availability of service to taxpayers, particularly those that work during the day and just cannot break free to contact the IRS. So that is a concern.

Mr. COYNE. So the fact that that has not happened yet is a direct result of the lack of resources to do it?

Mr. MONKS. Certainly, part of that is a resource issue. Certainly, one of the focuses this year, because of the problems with toll-free

access, has been to put more resources into toll free and I think that effort has proved to be successful. Obviously, when you have a number of priorities, you have to make decisions as to where you spend your resources and our primary effort this year, at least in customer service, has been to enhance the level of access on the telephones.

Mr. COYNE. What would be a good response percentage for you? What do you think you ought to be able to respond to? What percentage of calls do you think the IRS ought to be able to respond to?

Mr. MONKS. Well, ideally, we would respond to 100 percent, but that would be certainly a significant resource problem. I would say that we ought to be striving in the areas of 80- to 85-percent level of access for taxpayers. That is a goal we used to hit several years back on a fairly consistent level and I think that that ought to be our target effort, somewhere in that arena, because I think at that if you go beyond that point, you are beginning to perhaps spend resources inefficiently that could be used for other programs.

Mr. COYNE. What is the current percentage? What are you responding to now?

Mr. MONKS. This filing period, we are achieving a 68-percent level of access and that compares to a 48.6-percent level of access last year. So we are up substantially. It is still not where it needs to be, obviously, but it is up substantially. It has been a concern and one that we put a lot of resources into and we have paid a lot of attention to it.

We are also looking—in fact, we have a task force in Problem Resolution that is cosponsored by our Mid-States Region looking at how we might be able to improve access by trying to reduce demand, unnecessary demand that is coming in as a result of perhaps taxpayers not getting their information from other sources, such as the tax package and so on. We are looking at a number of areas to try to enhance that service.

Mr. COYNE. You touched on your work with the EITC problem that exists, and that in 1995, there were 18 million taxpayers who filed for the EITC. How many additional families and individuals do you estimate are eligible for EITC but failed to file for it?

Mr. MONKS. That is a difficult question to respond to because if they did not include it on their form, it is difficult for us to determine whether or not they are entitled or would be entitled to it if they did not claim it. We do try to identify in the Service those returns that come in where it appears that the taxpayer may be entitled to a credit. We send them a notice advising them of that and ask them to provide some additional information that would validate whether or not they are entitled to the credit, but I could not give you a number.

Mr. COYNE. So you have no figure on that?

Mr. MONKS. No, I do not.

Mr. COYNE. Does the IRS provide the EITC to eligible families and individuals in cases where an employer sends the IRS wage information, a W-2 form, showing EITC eligible amounts but the family or individual does not file? Do you give that taxpayer the credit for it?

Mr. MONKS. No, we do not. They have to file a tax return in order to get the credit. It could very well be that if some information identified that a taxpayer was eligible, we might send them a notice saying it appears that they are eligible for the credit, but we would not automatically give them the credit without their filing for it.

Mr. COYNE. If you do get the W-2, though, do you notify them that they are eligible?

Mr. MONKS. No, I do not believe so. I believe it would take the filing of a return. The W-2 in and of itself would not necessarily indicate that they were eligible for the credit. There might be some extenuating circumstances that would make them ineligible for the credit. The return would have to be filed and then that, in turn, would generate a notice if the taxpayer appeared to be eligible for the credit.

Mr. COYNE. In your report, have you done anything to recommend changes in the EITC form to make it easier for people eligible for the EITC to file for it?

Mr. MONKS. That is another area that we have asked a specific task group to look at. The Western Region is currently looking at the earned income tax credit process. They, of course, have had significant experience with that as a result of some of the revenue protection issues which surfaced out in the Western region initially. They have probably the highest experience with that particular problem in terms of cases that have come into Problem Resolution. So they are working a project and we expect that project to be completed in the very near future and to be able to have some specific information in that area.

Mr. COYNE. Thank you.

Chairman JOHNSON. Mr. Portman.

Mr. PORTMAN. Madam Chair, Mr. Ramstad has to go participate in a debate on the floor of the House, so I am going to yield to him and I think he is yielding back to me.

Mr. RAMSTAD. Thank you, Madam Chair, and I thank my friend from Ohio for yielding.

Mr. Monks, you mentioned in your testimony, and I am quoting now, "We should leave the Code alone," and you drew that conclusion, you said, based on a focus group meeting. Was this focus group one held here in Washington, people from the District, or inside the beltway?

Mr. MONKS. We did a series of focus groups in 1993 that went out across the country. I cannot remember all the sites, but I believe San Francisco, Atlanta, and a couple of other locations, where we talked to individual taxpayers. One of the things that we wanted to find out in that series of focus groups was about the service that they received from problem resolution and we also touched on a number of other issues. That is one of the issues that they raised, that they felt that the complexity was enhanced to a great degree by the continuing numbers of changes to the Code.

Mr. RAMSTAD. Certainly, with all respect, I would welcome you to come to Minnesota because I have yet to find a constituent who believes that the current Code is either simple enough or fair. Ten thousand pages of rules and regulations last year, and according to the report I read, it took the taxpayers of our country 5.1 billion

hours to comply at the cost to our gross domestic product of \$300 billion. I certainly would welcome you, because in 7 years of representing the good people of Minnesota's Third District, I have not found one who believes the Code should be left alone, that it should not be made less complex and more simple.

Mr. MONKS. Mr. Ramstad, I did misspeak on that. What they were talking about was not necessarily the Code and I did misspeak. It is the return itself that I was alluding to and I misspoke on that. The basic tax return changes as a result of changes to the Code, and—

Mr. RAMSTAD. Oh, I see. OK.

Mr. MONKS. That was the issue I was alluding to.

Mr. RAMSTAD. I am relieved to hear that because I was incredulous at your remark, which I wrote down verbatim, "We should leave the Code alone." I do not think too many people in this Congress reflective of their constituencies would agree with that—

Mr. MONKS. And I would agree, also.

Mr. RAMSTAD [continuing]. Because the thrust of tax reform is obviously to make the Code less complex, more simple, and easier to comply on the part of the taxpayers.

Let me just ask you another question, if I may, based on the large number of people in my district back in Minnesota who are upset with the failure, really, of the IRS to implement interest netting on overpayments and underpayments. I am sure you are familiar with the issue. It has never made any sense to me nor to the people I work for back home why a taxpayer should be forced to pay a higher rate of interest when he or she has an underpayment situation than the IRS pays in overpayment situations. It seems to me a blatant and unfair double standard to have those two different rates.

In spite of congressional instructions to implement interest netting, the IRS has, to my knowledge, failed to do this. Have you looked into this, and if so, could you tell us why?

Mr. MONKS. We are looking into this issue, and, in fact, we have recently put together a simplification group within the IRS and we are looking at issues of this very nature. This could very well be one of the recommendations that comes out of the group, to make the rates the same. I think, currently, the rate that taxpayers would pay the IRS on a deficiency is 9 percent, whereas the rate that they would receive from the IRS on a refund, if it was appropriate, is 8 percent. This is an area that is being looked at and we think that a recommendation will come out of this effort to make that more equitable.

Mr. RAMSTAD. I appreciate your emphasis there and I truly hope it is one of those recommendations. Actually, I think the disparity is even greater, but nonetheless, I am pleased to hear you say it is a priority and I look forward to discussing it with you further and to making that change, because it is not fair that the taxpayers have to pay a higher rate of interest than the IRS pays them in an overpayment situation.

I will yield back, and again, I thank the gentleman for yielding.

Chairman JOHNSON. Thank you.

I am going to recognize Mr. Kleczka next.

Mr. KLECZKA. Thank you, Madam Chair.

Mr. Monk, I think you responded to Mr. Coyne relative to the office hours. Is there any pilot project started around the country where either during tax season we open the office on Saturday until noon, or 1 night a week the office would be open, say, until 9 to convenience tax filers who happen to work so they can pay their taxes?

Mr. MONKS. I believe that there are. I do not have specific information on which offices may be providing that type of service, but it did come to my attention that there were some specific offices that were experimenting with extended hours on either Friday or providing some Saturday service.

Mr. KLECZKA. OK. How widespread is the lockbox approach? Is that in all the various areas of the country? I am not associated with it in Milwaukee yet.

Mr. MONKS. A lockbox is a process where taxpayers forward their returns and the payment on the returns directly to a banking institution that, in effect, makes the deposit immediately so that the Treasury of the United States—

Mr. KLECZKA. How widespread is the practice?

Mr. MONKS. It is all across the country. This is a standard process.

Mr. KLECZKA. OK. And the last question I have is, in regard to the refund anticipation loan program, as you looked into that, have you found some widespread abuses where either the bank or the filing company charges a relatively high percentage of the refund in order to give the immediate refund to the tax filer?

Mr. MONKS. This has been an area of concern, I think, for some time, particularly for low-income taxpayers that seemingly have a need to have their refund relatively quickly and that go to various institutions that charge a high rate for the service to—

Mr. KLECZKA. Do you have any examples of how high the rate can be?

Mr. MONKS. Not specifically, but I think that depends upon the particular market area, but there are some companies that provide, in effect, the whole package without differentiating between the rate for the filing of the return and the rate for electronic filing. I have read some stories that indicate some rates charged in various locations are fairly significant in terms of what you would view as an interest charge, of that nature, but I do not have any specific examples.

Mr. KLECZKA. So we have no example of what the interest rate could be?

Mr. MONKS. No.

Mr. KLECZKA. Ten percent? Twenty percent? You have no idea whatsoever?

Mr. MONKS. If you were to compute that on an annual basis, I think it could work out to substantially higher than that.

Mr. KLECZKA. Like?

Mr. MONKS. I would say in the neighborhood of perhaps 30 percent.

Mr. KLECZKA. Do you think legislation is needed in this area to curtail some of those practices?

Mr. MONKS. I think legislation might be appropriate.

Mr. KLECZKA. To do what, limit the interest rate charge or limit the practice altogether?

Mr. MONKS. Well, it is not necessarily an interest rate, of course.

Mr. KLECZKA. Well, how do we determine that?

Mr. MONKS. It is a fee-for-services, and to some degree, the fee depends upon what the market will bear. Frankly, it surprises me that taxpayers sometimes will pay the charges that are charged for this particular service, but they do. I do not know if that is an area that should be regulated or not, but I think that we should work within the IRS to provide additional options for taxpayers, perhaps for free electronic filing, free service so that the taxpayers can get their refunds expeditiously, and make that available to them and known to them.

I think we should work with Volunteer Income Tax Assistance, VITA, sites to provide the capability for those VITA sites to file returns electronically so that taxpayers can have an option. That way, if they choose to, they can go to the VITA site and get the service there. If they choose to, they can go to a company and get a refund anticipation loan, RAL.

I think it is one of our responsibilities, certainly as an Advocate, to at least advocate for providing some options to taxpayers that might give them some other choices.

Mr. KLECZKA. Thank you very much.

Chairman JOHNSON. I have to say, Mr. Monks, you have been in this job for 3 years. Many of the things on your list are identical to things on a list 3 years ago and my colleague just asked you about locations of business, opening hours. Number 20 on your list is, of the problems faced, it says inconvenient times and locations of doing business with the IRS. Working taxpayers often find it difficult to do business with the IRS during the IRS normal work day, from 8 to 5.

Now, this is an old recommendation. Why are you not here today giving us some guidance on we need a law that allows flex time, or what do you need? We all understand the constraints, but this Subcommittee was a very tough ally of the IRS in the last Congress to get more money into your budget. But you specific this as one of the problem. It is a pretty simple problem. It has been around a long time. It was on preceding lists when you were there and yet you have no recommendation.

The same with cash management practices, number 17. Burden caused by cash management practices. The IRS practice of using lockbox vendors and separate envelopes for returns and remittances causes confusion among taxpayers. Now, it does seem to me that you might have come with some recommendation about that. That does not seem so difficult or you would have said, it is a problem and it cannot be solved for the following reasons.

You know, we were looking to this hearing to develop the substance for another taxpayer bill that would help you and help us and there are two simple things my colleague just asked about on your list, could have been addressed and were not, and that disappoints me.

Mr. MONKS. If I could respond to a couple of those items, certainly on the inconvenient times, some of these problems have been longstanding and are being dealt with and I tried to in the Advo-

cate's Report to the Congress to provide some examples of where service was being improved. Hours have been extended, certainly for toll-free services, and we have experimented with longer office hours in specific locations.

Obviously, resources is a continuing problem. The IRS budget has gone down each year, or at least remained constant, but did take a decrease for a couple of years and is substantially lower now than it has been in the past, certainly in terms of 1997 dollars.

We have made an effort to improve access to taxpayers on toll free and are also trying to retain our walk-in program at at least the same level that we have in past years. This is a challenge for us. Obviously, I do not have all of the answers but I think we have made some strides in this particular area. Our office hours are improved.

Chairman JOHNSON. I just make the point that we, really, we are looking for more specific recommendations and I hope in the future they will be more concrete and specific. Do you need authority for people to work different hours depending on the demand in certain areas, that kind of thing.

Anyway, let me yield to my colleague, Mr. Portman.

Mr. PORTMAN. Thank you, Madam Chair.

I have so many questions, I do not know where to begin. First of all, I thank your office for working with this National Commission to restructure the IRS. As you know, we have about 5 months left before issuing our final report. Mr. Coyne is also on that Commission with me and at our hearing about 2 months ago, your Problem Resolution Officers participated and gave us some very helpful input.

Not to pile on here, but I think what you are hearing is "where is the beef?" This report is fine in terms of identifying problems. That is what we are experts at. It is the people who are politicians, public officials like ourselves who love to talk about the problems at the IRS and we are very good at it. What we need you to do is to tell us how to solve some of these problems, and I think you are in a unique position.

Number one, you have the knowledge. You are working on these problems every day. Your PROs, I see, I think, five of them here in the front row, can tell you what is going on out in the field. You know, you, frankly, are not buffeted by the political winds that we are, so you have the ability, I think, to play a unique role here and to really help taxpayers.

If you do not have the time to do it, you do not have the budget to do it—incidentally, the IRS budget has not decreased over the last decade. It consistently went up. Last year, yes, there was some reduction, particularly in the area of modernization after \$4 billion was spent on the computerization project which apparently is not working well. That is understandable, and this Subcommittee did stand up for you and did try to give you the resources you needed, but you have to reallocate those resources to help taxpayers in a way that I think you uniquely can do, which is to give us constructive solutions, not just list the problems for us. Again, that is what we are very good at.

Let me just focus on a couple, if I could. First of all, I am sorry you reversed your position on responding to my friend, Mr.

Ramstad's question on change. If change is a major problem, tell us that. Do not back away and say, "That is not what I meant. I think you guys can go ahead and change the Code all you want."

One of the problems is complexity. Another problem is we keep changing the Code so much. You should be an advocate for us not changing the Code so much. Surely, we need to simplify the Code, but once we do that, we have to stop changing it so often. I think that is what I would say if I were in your position, because, certainly, that is what I have heard over the last 7 months continually and I hear that even from my constituents, as do the other Members around this panel today.

So I guess my suggestion, respectfully, is that you be more aggressive, that you really take on the role of an advocate. I believe you testified earlier that you ran this report by the regional heads, and so on. I do not know if that was the intent of the legislation. I did not draft it with Mrs. Johnson particularly, but I think folks on this panel would like you to report directly to us, and not necessarily to vet it through the management structure. I think you need to give it to us straight as to what the real problems are and what the constructive solutions are.

With regard to your burden scoring, I am very interested in that. Give us some suggestions. We are working on two or three ways with the Commission, in which you could essentially put the same National Taxpayers Union type scoring on legislation as it works its way through on the complexity side. What are the burdens to the taxpayer and to the IRS? Therefore, what are the costs to the system of legislation being proposed? We need your help on that.

Second, you should be recommending that the IRS be involved in drafting legislation. You all should be at the table, not necessarily you, Mr. Monks, but maybe some people in the program areas that are affected by new legislation. That is partly our role to try to make that happen more, but also, you need to be an advocate out there to tell us how you can be more effective in drafting this legislation so it is not so complex for the taxpayers and for the IRS.

With regard to phones, I have to respectfully disagree with you on that. The figures I have from GAO show that for fiscal year 1996, 20.56 percent of the calls got through—20.56 percent of taxpayer calls went through. Now, I know there are different formulas being used here to come up with different figures. They factor in abandonments. They factor in busy signals, which I think is appropriate. Apparently, in your numbers, you factor in calls where someone is asked to hold, and there may be some discrepancy there. But I do not think the figure is 46 percent for last year. I do not know if it is 80 or 85 percent this year. I think it is more like 20 percent.

Again, not to focus on a problem so much, but at least we have to understand what the problem is in order to come up with a constructive solution. I agree, more resources should probably be devoted to phones, but let us be sure that it works and that it works consistently with the other modernization efforts around the system.

Finally, with regard to the Taxpayer Advocates around the country, I think Field Resolution Officers should properly report to you, and I have changed my mind on that. I think they should report

to the District Officers, to the managers out in the field. Initially, I thought they should report to you because their allegiance should be to you. I do not see heads shaking one way or the other here. I am sure we will hear later from your representatives.

But I do feel strongly that if you are going to have Taxpayer Advocates that actually have an opportunity to represent the taxpayer, their stature needs to be improved. Specifically, what do you think of giving them the same stature as their peers heading other functional divisions in the district offices, in the regional offices, in the service centers?

I was in the Cincinnati Service Center all day yesterday. It seems to me that it is very difficult for them to progress in their careers right now because the only way they can progress is to get into the functional areas. So how are they going to be able to go up against the people in the functional areas if they cannot have that same status, and I think that is a legitimate concern. What do you think about that? What is your recommendation?

Mr. MONKS. And I agree that that is a concern. We are looking—

Mr. PORTMAN. Do you agree that it ought to be changed?

Mr. MONKS. We are looking at the grade level issue right now. I have had a discussion with the Deputy Commissioner about this issue. We are working with the personnel function to properly classify the grade level of the position and one of the things that we are looking at is to what degree are they participating in our advocacy initiatives, because, again, we have two roles in PRP, two missions, so to speak, and one is to fix the taxpayer's problem but the other one is to advocate for the taxpayers by improving the processes.

So we are looking at the possibility of enhancing the advocacy challenge of that position and using that as a grade-enhancing item that would possibly result in more equity in that area. I think that that is something that we will have a response on relatively quickly.

Mr. PORTMAN. Have you made a recommendation to the Commissioner to enhance the rank of the Problem Resolution Officers?

Mr. MONKS. I have talked specifically with the Deputy Commissioner about this issue and I want to be able to get the leg work done specifically before I go back in with a final recommendation.

Mr. PORTMAN. Sorry I spoke so much and did not give you more of a chance. Obviously, I have a lot to say. I would also like to hear more from you. I look forward to continuing to work with you as the Commission completes its work.

Thank you, Madam Chair.

Chairman JOHNSON. Thank you.

Mrs. Thurman.

Mrs. THURMAN. Thank you, Madam Chairman.

Mr. Monks, this is my first time on this Subcommittee and my first time dealing with this issue, so you will have to bear with me, but it is not the first time I have dealt with constituents who have to deal with the IRS. That, I think, all of us have in common up here.

What I hear some Members saying is that, while you are trying to be the taxpayer's advocate, we are trying to be your advocate in

helping you in your report to implement some of these programs that you see as your top 20 list, and I think that is important for you to remember.

So if we seem frustrated, I think we are frustrated because for us to do that, we need to understand what our role is in any one of these issues, whether it be something that we need to bring to the attention of your superiors that nothing is happening and this is a result of 3 years or this is something that needs to be done as the result of legislation.

So I think that if you take it from that, that we are just as frustrated as you are and in 3 years, if we see the same things, you can understand that we are not going very far.

The other thing I will say is that since I have now been appointed to this Subcommittee and particularly to the Oversight, it is amazing how quickly that gets around in a rumor in your district; and all of a sudden you start getting a lot more inquiries and a lot more phone calls about these particular issues.

One that really came to mind and one that was brought to me just recently, and quite frankly, I do not think I recognize that, but then I should not say this, but I have not had to be audited, so I do not know that I understood totally what some of them were talking about when they told me on this issue of when they are going through an audit and all of a sudden, 3 years down the road, they may still be in the middle of an audit and they are continuing to have to pay penalties or interest and so on and so forth.

Can you tell me what is going on with that, because I think that is a very serious issue. That is money that would be spent, in some cases for small businesses, to be able to expand, or for more employment or whatever, and I read in here that there are some things you are trying to do or that you were given some authorization last year or in 1993 for some abatement of this. What is going on in that area?

Mr. MONKS. And you are talking about the ability to abate interest on a case that perhaps has gone on for too long?

Mrs. THURMAN. It is really caused by IRS.

Mr. MONKS. Of course, TBOR2 addressed that, I thought, very effectively.

Mrs. THURMAN. Right.

Mr. MONKS. It does allow the IRS the capability to abate interest where a case has drug on and is—I think the wording in the legislation is due to management error and that could be construed as a case that perhaps has been transferred from one agent to another and has gone on for an inordinant amount of time, far longer than a normal audit. The IRS would have the capability to abate interest in those particular situations, and this, of course, has been legislated as part of TBOR2.

Mrs. THURMAN. How do they go about doing that? Is that initiated through them or is that initiated by IRS?

Mr. MONKS. The procedures have not been fully developed yet. This becomes effective with the tax year beginning after the date of enactment, so we have a little bit of time to work on them. We are working within the IRS with Legislative Affairs, with Examination, and other functional areas that are involved in this process

to develop the actual procedures that will be utilized for that purpose.

But I think it could be initiated by either the taxpayer at the taxpayer's request, or where IRS recognized that a serious problem took place, they could actually initiate that action. We will be working with the groups that are looking at this issue very closely to ensure that this particular element of TBOR2 is enacted appropriately.

Mrs. THURMAN. And that goes into effect, you said, this year?

Mr. MONKS. With the first tax year after the date of enactment, which was July 30, so I think it would begin with tax years beginning August 1.

Mrs. THURMAN. So those rules and regulations for that should actually be coming out so that those that are getting ready to go April 15—

Mr. MONKS. Very soon.

Mrs. THURMAN. We can expect that?

Mr. MONKS. Very soon.

Mrs. THURMAN. The mailing issue, as people move around, evidently, there have been some problems in determining and maintaining taxpayers' current addresses. Where are we on that issue at this time?

Mr. MONKS. That was a study, and, in fact, many of the recommendations from that study were a direct result of an effort that we initiated in the headquarters office. One of my employees took the lead in working that issue. I worked with that group very closely.

We have initiated a number of actions. We are still in the process of trying to identify the appropriate means for taxpayers to notify us of their official address. Currently, a form—I cannot remember the number, 8822—is required, or the IRS will pick up the correct address from the filing of a new return.

Mrs. THURMAN. What happens if something is undeliverable and it comes back to you? What then happens?

Mr. MONKS. We do research, depending upon what the type of undeliverable mail it was. We do research on a number of sources to try to identify the taxpayer's current address so that we can get that address corrected and mail to the taxpayer.

Mrs. THURMAN. Mr. Monks, I have lots of other questions, but hopefully, in our next panel we will get some better ideas of some of the issues that are dealt with on an everyday basis and maybe some recommendations, as well, and we look forward to that. Thank you.

Chairman JOHNSON. Thank you.

Congresswoman Dunn.

Ms. DUNN. Thank you, Madam Chairman, and welcome, Mr. Monks. This is a very short period of time to ask questions of you, I appreciate, and I know that you have worked very hard at your job, but I find myself often the translator of IRS policy and, embarrassingly sometimes, also of congressional statute about the IRS. The statute is our fault and we can get at it with the proper recommendations, but policy or regulation out of the IRS concerns me a bit.

Where I have heard you say that last year, you were able to accept inquiries over the phone from 46 percent of the folks who would like to have talked to you over the phone, and I hear from my constituents that often that line is busy and it is difficult and you have to be on hold, all those things that are tough for people, I guess what concerns me more is what I would see as a policy or an administrative responsibility there that seems to be lacking.

What I do hear from my constituents is that when they do get through, often, the answers are incorrect, in error, and that bothers me a lot.

As I was going over your summary of the problems, which I think is an excellent summary and certainly reflects what I am hearing out there and I am very glad you worked through the regional folks to get this summary, I wonder if there is not a more scientific process you could use in addition to their firsthand information, I am bothered by a number of areas where I think there can be greater accountability from your point of view on the administrative level.

For example, number 3, the lack of clarity and inappropriate tone of IRS communications with taxpayers. Number 4, the erroneous IRS notices. Number 7, the problems in the administration of tax penalties. Number 8, the lack of understanding of taxpayers' concerns.

Have you looked into ways, Mr. Monks, where we can, through the IRS, achieve greater accountability in the areas that I have just mentioned, for example, greater training, greater familiarity with what is already a complicated set of rules and regulations, that would assist you in producing a more effective output once people do get in contact with your folks? What is the answer to that problem, I guess is what I am asking.

Mr. MONKS. That is a complex question. One thing I did want to also address was the quality of the input, so to speak, in the report. I did indicate that one of the things that we plan to do are to conduct some focus groups this year with taxpayers to get more specific information from them on what things are most serious to them. In reality, our list of serious problems stems from our perception and from anecdotal information that we have received from taxpayers and from our own staff. We want to conduct these focus groups to get a better picture from their perspective. What do they see as the most significant issues?

Then we are also going to be dealing with the practitioner community to get from their perspective what the most serious problems are and, hopefully, be able to go in with a multi-faceted approach on where the problems are. Obviously, that is going to identify a significant number and we will deal with as many of those as we can.

Accountability is a critical area. We are accountable for providing good service to the public on the telephones and we are also accountable for providing quality answers. We have a very significant quality review program that tries to monitor the quality of our responses to taxpayers and I think the quality rate is somewhere above 90 percent at this point in time, at least according to the statistics that are kept in that particular area.

Is that an acceptable level? I am not sure. We need to be accountable. We need to provide the best service that we can to the public and this is an area that we do continue to look at.

In the area of clarity of notices and communications, my office works with notice clarity and works with other functional activities to look at specific notices that are planned to be issued, to make a determination if they are appropriately worded, do they provide the right tone to the taxpayer. Obviously, we are dealing with compliance issues and, to some degree, the tone has to catch the taxpayer's attention. There are other notices where we have made recommendations for improving the tone or at least the clarity of the notice so that taxpayers can understand those notices easier.

Some of the notices that we have had problems with are, for example, adjustment notices that do not necessarily fully describe the extent of the problem, so in effect—we automatically create the need for a taxpayer to call us. We recognize that that is a problem because we send a notice out that does not fully describe the situation. The first thing that is going to happen is a telephone call and that exacerbates the problem on toll free. So we do have to look at that area very carefully to try to depict the problem for the taxpayer more effectively.

I do not know if that fully responded to your issue or not, if you could—

Ms. DUNN. I think it is an answer. I just think that if you have been doing all those things and you still have these problems among your top problems, you had better start thinking about doing something else. I do not know if it is sensitivity training or what it is, but certainly learning the Code would be the first thing that we could expect from the folks who work for the IRS.

Madam Chairman, may I ask one more question? My time has run out.

Chairman JOHNSON. If it is brief.

Ms. DUNN. Yes. Let me ask a really brief one. The recent McGill case, the old gentleman, a year or so ago was when I first learned about it, 93 years old. He wrote a check to the IRS for \$7,000 when his bill had been \$700. Later, he died. Four years later, he died and his daughter in looking through his bills found the error. The Supreme Court decided after the IRS decided, everybody, that it should not be money refunded to him and the Supreme Court a week or so ago decided that that was the proper decision.

What do you think is the answer to that kind of a problem? They call it equitable tolling. You apparently do not have flexibility to refund \$6,300 to a senile man whose daughter proved to you that it was an overpayment. How are we going to handle situations like that?

Mr. MONKS. I read about that particular case and that was one that, frankly, I have to say, bothered me somewhat, certainly from a Taxpayer Advocate's perspective. I had not heard of that case before or cases of that nature.

Obviously, the statute had expired and the law precluded a refund from being issued. I would want to go back and look at the process that took place on a situation like that, because normally, if a payment went into an account, after a certain period of time, that should be identified and a refund issued. Obviously, if a return

had been prepared, a zero-balance return or a balance due return, the balance of the money would have been refunded to the taxpayer at that point in time. Since one was not filed, the money just went into a holding status.

What I would like to do is to identify the reasons that that did not become apparent to us before the statute expired, because it is my feeling that that money should have been refunded in a timely manner to the taxpayer once it became clear that there was no liability.

Ms. DUNN. I agree with you, and I am glad to hear your point of view on that. I wish you would let me know what you find and certainly that should be one where your flexibility to allow you to make a decision that I think is more in line with real life. Thank you.

Chairman JOHNSON. We certainly would look forward to that report. I think that is exactly the kind of responsive relationship that we want to have with you.

Mr. Hulshof.

Mr. HULSHOF. Thanks, Madam Chair.

Mr. Monks, following up on Ms. Dunn's situation, would a legislative enactment specifically allowing the statute of limitations to extend that period of time, would that cure the problem?

Mr. MONKS. Yes, it could.

Mr. HULSHOF. Do you make that recommendation? I think in your report, allowing an exception to the statute of limitations on refunds so that untimely requested overpayments can be credited, would that type of situation Ms. Dunn has mentioned, would that come within that legislative recommendation?

Mr. MONKS. I am not sure if that particular situation would fall into that recommendation. I would have to look at the circumstances behind that a little bit more. This is speaking more to the issue that came up when we were implementing our non-filer program, and it came to our attention that taxpayers were coming in to file past-due returns and on certain returns, they owed money. Obviously, we were going to assess the tax on those returns as appropriate.

On other returns, they were actually due refunds and why they did not file a return is beyond me, but the statute had tolled on those returns and we were unable to refund that money or even offset—and this is basically where we are coming from on this recommendation, is that we ought to be able to allow it, to the extent possible, to be able to offset against a balance due.

I would not necessarily be in favor of refunding money in that particular situation because the taxpayer had the opportunity to file a return and chose not to, but on a refund return where a balance due return was filed at the same time, it would seem that it would be appropriate to at least be able to offset that prospective refund against that balance due and that is what recommendation 2 is speaking of.

Mr. HULSHOF. Mr. Monks, let me ask you about a note that I jotted down during your oral testimony, and I think you said that 70 percent of the individual taxpayers in the country use the standard deduction, is that right?

Mr. MONKS. That is correct.

Mr. HULSHOF. Therefore, 30 percent were using the itemized deduction. Is it your belief that more individual taxpayers would use the itemized deduction method if the Code were simpler or if the forms perhaps not so onerous?

Mr. MONKS. I think that that is a very distinct possibility, because while 70 percent do use the standard deduction, it is very possible that the reason more people do not itemize is because of the complexity and the lack of understanding of what it is going to take to be able to claim a certain deduction, so they choose not to because it is easier.

In many cases, of course, the Tax Code has eliminated some of the deductions that can be claimed and so when it is very, very close, taxpayers choose just to take the standard deduction rather than to go through the trouble of filing extra forms and add complexity to their return. But it is conceivable that more taxpayers would choose to itemize if it were easier to do so.

Mr. HULSHOF. Let me follow up on your testimony about focus groups, and I think you said back in 1993, there was a series of focus groups. Is that the last time that focus groups have been used?

Mr. MONKS. That is the last time we have used focus groups in Problem Resolution, and at the time, what we were trying to do was to validate whether our criteria for casework was appropriate, what taxpayers thought about the service that they received from PRP, and what we could do to be of more assistance. This next series of focus groups that will be conducted this year will be the first time since then for Problem Resolution specifically.

Mr. HULSHOF. Would you think that more frequent use of focus groups would be a benefit?

Mr. MONKS. I do. Yes, I do. In fact, I think with the advent of this report, certainly, I recognize the need to gather more input in terms of trying to determine what the taxpayer's perspective was on the most significant problems that they were facing. Absolutely.

Mr. HULSHOF. In your top 20 list, you talk about the cost to taxpayers of electronic filing and indicate that the cost of electronic filing is actually a burden to those low-income taxpayers that are trying to get their quick refunds, is that right?

Mr. MONKS. Yes.

Mr. HULSHOF. You also mentioned, or at least it is mentioned in the report, that the automated walk-in assistance was available, I think, to about 50,000 taxpayers but that certain criteria was necessary to use that service. Can you recall off the top of your head what some of those criteria would be?

Mr. MONKS. No, I am sorry, I cannot. I apologize.

Mr. HULSHOF. You mention as a recommendation that there might be some community-sponsored programs that might be an option for low-income taxpayers. Would you describe what you mean by community-sponsored programs? It sounds like a great idea, but I am not familiar with that and perhaps you can enlighten me.

Mr. MONKS. Right. In my former position, I was District Director for Arkansas and I was very active in promoting what we call a Volunteer Income Tax Assistance Program in that particular area. We tried to enhance the program because we recognized that the

service that we were able to offer in our offices sometimes was perhaps only 1 or 2 days a week and there was a need for continuing service, so we did support the growth of the VITA program throughout the State and got a lot of service from our VITA volunteers who work throughout the filing period to assist taxpayers both with their questions and with their return preparation.

We also had VITA programs with military sites, community interest groups, and we even went to private business to try to encourage the use of electronic filing in their offices for the employees. So that is what I meant by community-based type programs.

Mr. HULSHOF. Thank you, Mr. Monks.

Thank you, Madam Chairman.

Chairman JOHNSON. Mr. English.

Mr. ENGLISH. Thank you, Madam Chair.

Mr. Monks, I want to focus on a couple of specific areas of your report and seek perhaps some elaboration. One of your missions, I believe, is to work with small businesses who are facing particularly high compliance costs in the current tax system. I am wondering, how often does your office assist small businesses? Can you quantify that in any way?

Mr. MONKS. I am not sure what the total is, but I would say that the majority of the taxpayers we deal with are individual taxpayers and it would be somewhere in the neighborhood of 25 to 35 percent of the time we would be dealing with those involved with small businesses.

Mr. ENGLISH. Thank you. Could you provide the Subcommittee with a more detailed breakout on that point?

Mr. MONKS. I will try to do that. We generally track the issues by type of problem that the taxpayers are experiencing, but we will look to see if we can do that and I will provide that.

Mr. ENGLISH. When dealing with small business, do you focus on administrative and procedural issues or do you also get into structural issues in tax compliance with the Code itself?

Mr. MONKS. Primarily, administrative and procedural issues.

Mr. ENGLISH. I wonder, has your office sought to quantify the burden for small business of compliance, for example, with the alternative minimum tax, AMT? Do you have many AMT compliance cases coming through your office, requesting your help?

Mr. MONKS. No, we do not. That is not a major problem that taxpayers are coming, at least to our offices, with. I think they are dealing primarily with the examination function or other functions within the Service, but that has not been a high-volume area for us.

Mr. ENGLISH. You may have a different mix of people coming through your office than I have coming through my office, but we have run into an unusually high number of small businesses that have a terrible compliance problem with the AMT, having to maintain what amounts to an entirely separate set of books, depending upon their profitability, and particularly for small businesses, it is an enormous cost. I would encourage you to focus on that compliance side and perhaps, if available, give us a little more information.

The other area I wanted to inquire about has to do with the earned income tax credit, which is both a critical program for the

working poor to participate in the work force and also as a program significantly hit with very high fraud and inaccuracy rates.

Now, as part of your taxpayer compliance effort, obviously, you do not focus as much on the fraud end, but I wonder, can you quantify whether your efforts have been helpful in improving the earned income tax credit accuracy rate?

Mr. MONKS. Let me just comment on the 1995 filing period, which was probably the hallmark of the IRS fraud efforts to detect and slow down refunds so that they could look at the returns and determine whether the credits claimed were appropriate.

There were procedures implemented, obviously, at the beginning of that filing period that caused certain returns to be screened into this review. We knew that this was going to have a significant impact on the Problem Resolution Program, and, in fact, our level of casework went up substantially that filing period and for the months afterward.

We normally handle somewhere in the neighborhood of 30,000 to 34,000 applications for Taxpayer Assistance Orders in a year. That year, we handled almost 60,000 applications for Taxpayer Assistance Orders and over, I think it was 60 percent of those—67 percent involved refunds that were slowed down as a result of the review of earned income tax credit. These were taxpayers that were inadvertently caught up in that process, filing for a legitimate credit, but met the screening criteria and so the returns were slowed down.

The Problem Resolution Officers in the field were inundated. The service centers were inundated. We worked to expedite those refunds once we validated that the credits were due and we made a number of recommendations, and those are outlined in the report, that were adopted by the Service, and as a result, the screening criteria were changed. This was not just the result of our efforts because the functional areas also made some recommendations, as well. The 1996 filing season was probably one of the smoothest ones on record in terms of these kinds of—

Mr. ENGLISH. Very good, Mr. Monks.

With regard to some of the partnerships that you have outlined in your report to expand outreach to potential earned income tax credit recipients, I wonder, and Madam Chairman, if I can just take another quick moment, if you could elaborate a little more on your claims that the IRS has secured the cooperation of more than 80 major organizations to assist with the promotion of the earned income tax credit, that you have partnered with State and local governments to include stuffers in various public assistance mailings, and that you have worked with local school systems, education associations, and other similar organizations to get out information on earned income tax credit eligibility.

In your view, were these IRS outreach efforts successful, and may I ask, can you describe them, even in writing, if it is more appropriate, to this Subcommittee in a little more detail exactly how you developed these partnerships?

Mr. MONKS. Yes. The responses in that particular section of the report actually came from the Chief Compliance Officer as to the actions that were taken by the organization to enhance the understanding and awareness of the earned income tax credit. I think it

has been a successful effort, one that I was involved with when I was Director of the Arkansas District, but I would be more than happy to provide additional information to you in that area.

Mr. ENGLISH. I would welcome that. Thank you very much.

Mr. MONKS. Mr. English, if I also could, I know of your interest in small business. I wanted to let you know that I and the Small Business Liaison for the IRS met recently with the Small Business Fairness Boards that were recently initiated by Small Business Administration, SBA. We addressed a group of about 40 of those members of the ten Fairness Boards across the country to let them know what kind of services were available, if their small business taxpayers had problems with the IRS. We have designated each of our Regional Taxpayer Advocates as the contact point for small business, the Fairness Boards, to deal with on problems directly associated with small business.

Mr. ENGLISH. Thank you, Mr. Monks.

Thank you, Madam Chair.

Chairman JOHNSON. Thank you very much, Mr. Monks.

Before we go on to the next panel, I just want to point out some of the simpler recommendations in your 20 that it would be useful to have your guidance on. They are the kind of thing that are particularly annoying to people.

For instance, the number of computer-generated penalties that are generated every year and then abated, how can we do something about that?

Taxpayers not getting notices of discrepancies between the income reported on the tax return for 1 to 2 years. We really have to have a more responsive system than that.

How can we help you deal with the costs of electronic filing at a time when we want to encourage people to file electronically—at least, that is my understanding of the former Commissioner's goal and of the agency's goal. Why is it so costly? What would it take for the IRS to offer people that technology? What incentives would it take? What would be involved in employers offering this service to their employees? So that kind of thing, we could legislate on in the near future.

This issue of taxpayers getting no response from the IRS, it is like a black hole. Well, you cannot write everybody back and say, we are glad to have received something from you, but if you are not going to make their payment in the sort of normal, timely fashion, why, every one of us have casework projects, and, of course, it is much smaller, but if you do not hear from my office for a month, you get a letter saying, I am sorry, we cannot respond to you yet. We have not heard from the Immigration Service.

It seems to me that at 6 months or 8 months or sometime, there ought to be a tickler file that says, we are working on your case and this is the problem. If we could get the information from you, you would hear from us, or whatever. I think for constituents to simply get no communication, not to ever know what happened is really not an acceptable system.

I will not go through more of the details but I would say that you will be back to us in June, on June 30, 1997, to report on another requirement of the Taxpayer Bill of Rights and that is how the agency is going to in the future deal with agents who treat

members of the public poorly or abusively. I was surprised after we passed the Taxpayer Bill of Rights to know that you had no system of actually tracking how many complaints there were about any agent. I am pleased you are getting started on implementing that.

But know that when you come back, please, we want a very much more specific report. We want to know how you are going to know how many complaints there were against someone, what steps do you take to find out whether the complaint was valid or not, what steps do you take to assure—and in hearings last year, we had absolutely outrageous stories of IRS employees telling people that we know that is a safe harbor there, take us to court, I mean, when the safe harbor was there and this person met the safe harbor criteria and there was sort of this high-handed area of, if you do not like it, take us to court. We are having a lot of this problem in some of the gray areas like independent contractors and stuff like that.

We want a substantive response here. This is very, very important. To have had no ability at all in the past to know who is arrogant with the public and who is not means that all IRS employees get painted with the brush of the actions of what are, I believe, a very few. I just call that report to your attention.

Thank you for being with us. I congratulate you on some of the progress that you have made. I do remind you that the Congress cannot act without focus and we do call on you to be part of a more focused approach to taxpayer service, working with us to both change the law and support you in administrative change. Thank you very much, and I will welcome the next panel. Thank you, Mr. Monks.

Mr. MONKS. Thank you.

Chairman JOHNSON. The next panel, we are very, very pleased to have. You are the people out there on the frontline. You deal with this all the time and I want you to know that I really regret statements that have been made in the past that tend to paint all IRS employees with the brush of the problems that have developed in the computer modernization program.

It has certainly been my experience, working with people like Mr. Romano from the Hartford Office, and I welcome you here and am delighted that you were able to come, that the IRS has a lot of very fine people working for it who are knowledgeable and who really care whether the public gets the service they desire.

Often, your job is not made easier by our propensity to pass extremely complex law for arcane and sometimes political reasons. So the problems that you are having are, in part, problems that we create, and one of the reasons this Subcommittee created the mechanism we have created is to allow a far more straightforward dialog. So do not worry about either insulting us or complaining that actually we might have been wiser, because one of the things we have to do a better job of in Congress is going back and fixing those things that happened sometimes at midnight, sometimes at 3 a.m., and result in an almost unadministerable Code provision. So we want to know from you what your experience is, and we thank you all very much for being here.

Let me start on my left. Mr. Romano.

**STATEMENT OF FRAN ROMANO, DISTRICT TAXPAYER
ADVOCATE, CONNECTICUT/RHODE ISLAND DISTRICT,
INTERNAL REVENUE SERVICE, HARTFORD, CONNECTICUT**

Mr. ROMANO. Thank you, Madam Chairman.

Madam Chairman and distinguished Members of the Subcommittee, I appreciate the opportunity to be here today to give you a local perspective of an Advocate from the Connecticut/Rhode Island District and to hopefully take you through the process and explain what it is we do at the local level to take a taxpayer through the process of providing relief.

One of our most critical responsibilities as outlined in the Taxpayer Advocate's report is for us to process form 911, Application for Taxpayer Assistance Order. These cases are usually very sensitive, as you know, and we are dealing with taxpayers who are angry, and frustrated. Many times, they have exhausted all of their administrative remedies and they come to us seeking assistance. These cases usually involve an enforcement action when we have either attached a bank account, a wage levy that is attached to their pay, and it is their only source of income, their only remaining source of funds.

In addition, we get taxpayers who are asking us to expedite the processing of a claim or a refund return because they are undergoing some financial hardship and they need to have the funds in order to alleviate that hardship.

I have to point out, though, that not all Application for Taxpayer Assistance Orders are filed by taxpayers who have a hardship. In many cases, we find that some taxpayers will use the form to stall collection action or they will use the form even though they have not cooperated through the entire administrative process that has been available to them.

Regardless of the issue, when a form 911, Application for Taxpayer Assistance Order, comes into my office, either I, myself, or a member of my staff that same day or the next day acknowledge receipt of the form to the taxpayer. We then contact the employee and the frontline manager involved and discuss the facts and circumstances of the case and see if we can come to some type of resolution. If we cannot at that level, we raise it to the next level of management, all the way up to the Division Chief level, if necessary.

I have found, in my experience, that it is rarely necessary to raise it to that level, that reversing an action or negotiating some other type of alternative means of resolution for the taxpayer can be worked out at a lower level of management within the Service. I have to say that for this reason, the number of actual Taxpayer Assistance Orders, are low and I have never had to issue one in my district.

Once we determine a hardship exists, we make sure that there is no enforcement action taken on the taxpayer, while we are negotiating for the taxpayer. Thus, no subsequent enforcement action takes place. We are usually able to make that type of determination very quickly and many times alleviate the hardship and then we go on to resolve the remaining part of the problem.

As I stated before, many of the collection-type taxpayer assistance applications have to do with releasing a wage levy or a bank

levy and those are usually resolved very quickly. We can get to the functional management, get the levy released, and place the taxpayer into some type of alternative arrangement, such as a payment agreement.

Not everything is that simple, however. The Service has a program called the Substitute For Return Program, which we call the SFR. Many times, for taxpayers who have been nonfilers, the Service will take the wage information and payer information that we have and prepare returns on behalf of the taxpayer. The taxpayer goes through an entire administrative process and the tax is legally assessed.

Regardless of that, the taxpayers do not agree with the tax that has been assessed legally and they many times get referred to our program for us to correct those situations. These usually involve several years and the enormity of the tax situation is something they cannot deal with. We are usually able to get corrected returns from the taxpayers, get the tax assessments corrected, and then set them up in an installment agreement, if that is appropriate.

What comes into play here many times, is the issue that was raised before about the statute for claiming a refund on an old tax year. Many times, these taxpayers are faced with a situation where they do not file these returns timely. They perceive the fact that they cannot get the refund, nor can they apply the refund years toward the balance due returns, as very unfair and even punitive, the way the system is currently set up. So I think this is an area—in the Advocate's Report, where there is a legislative proposal to deal with this type of issue. I think this is something that needs to be considered.

There are also situations where a taxpayer may file an assistance order, as I pointed out before, and may not be deserving of relief, based on the facts and circumstances of the case. We are charged with making it clear to the taxpayer that in this situation, we are not going to be able to provide relief. We are sensitive to the plight of everyone who comes to us. We do listen to them. We are out there trying to do our best for them, but there are some situations where we cannot provide relief for whatever reason.

I just want to make the point at the end that with all the things we deal with, the technological advances, the changes in the law, and the reorganization within the IRS, I believe more than ever, there is a need for the taxpayers to have a place to go where they can get face-to-face help. None of us like dealing with a bureaucracy where we are always dialing phone numbers and talking to machines. So we really perform an important task and I think we have been very successful, the way the current structure is, in making some changes. Thank you.

[The prepared statement follows:]

**Statement of Fran Romano, District Taxpayer Advocate, Connecticut/
Rhode Island District, Internal Revenue Service, Hartford, Connecticut**

I appreciate the opportunity to be here today as the Taxpayer Advocate for the Connecticut/Rhode Island District of the Internal Revenue Service. I would like to take this opportunity to provide the committee with the perspective of a local Advocate along with a synopsis of the types of inquiries I receive and how the process of providing assistance and relief to taxpayers transpires in the District Office. I have been involved in the Problem Resolution Program since 1983 as a Caseworker,

Group Manager, Assistant Problem Resolution Officer and Problem Resolution Officer (Now Taxpayer Advocate).

I would like to preface my remarks by noting that, due to Code Section 6103, restriction on disclosure, the examples I will discuss are some of the general scenarios that I may face on any given day and do not reflect the individual circumstances of any particular taxpayer. I would also like to point out that becoming involved with Individual Taxpayer problems is only part of what an Advocate is responsible for in the District Office. Participating in Regional and Local Advocacy Projects, acting as a contact point for the practitioner community to raise critical issues, and monitoring the newly instituted Customer Feedback System are also important aspects of our positions. I am currently involved in our Northeast Regional Project to study Federal Tax Deposit penalties, one of the top five most serious problems highlighted in the Advocate's report. As an Advocate, I am continually trying to place myself mentally in the position of a taxpayer having to deal with the IRS, and trying to gauge how the IRS actions would affect me. Advocacy projects and becoming involved at the front end of policy implementation is as important as assisting the individual taxpayers who come to us for help.

The Taxpayer Advocate's report outlined the major issues that were the source of Problem Resolution casework in both the Service Centers and District Offices. I would agree that these are the major issues at the District level in Connecticut/Rhode Island although not in the same order. Audit Reconsiderations are a good example. These were the number one source, by volume of casework, in FY96 nationwide. In our District, these were the fourth highest volume.

There are a variety of reasons why these cases end up in the Problem Resolution Program. Taxpayers may have failed to submit information requested by the IRS, during the original audit, to verify their returns. The documents provided may have been incomplete. The Service may not have received correspondence or it may not have been received timely. In some cases, the Service may have misplaced the taxpayer's documentation or failed to associate it with the taxpayer's file. Whatever the case, many of these inquiries end up in the Problem Resolution Program. When accepted into the program, the taxpayer is given the opportunity to submit documentation to verify the item in question. If the taxpayer responds with the necessary documentation, we adjust the assessment to reflect the correct tax. If the taxpayer fails to respond we close the case and the original assessment stands.

One of our most critical responsibilities is to handle Form 911, Application for Taxpayer Assistance Order (ATAO). These cases are usually very sensitive and are submitted by taxpayers who are many times angry, distraught, very emotional and frustrated with the enormity of the situation. Almost all of these taxpayers have gone through either the examination or collection process or both. They have usually exhausted all of their administrative remedies and reach out to us for assistance. I must add that there are some who use this procedure to delay collection activity and have not cooperated throughout the entire administrative procedure available to them.

ATAOs are usually filed due to an enforcement action or proposed enforcement that the taxpayer believes is causing hardship. Applications are also filed by taxpayers who are seeking to expedite the processing of claims and refund returns to relieve some financial hardship they may be undergoing. Regardless of the issue, either I, or a member of my immediate staff, will contact the taxpayer within two days and acknowledge receipt of their application.

We first determine if a hardship situation exists and, if so, put a hold on any imminent enforcement action pending a decision on whether relief will be provided. Our next action is to contact the employee and the front line manager on behalf of the taxpayer to discuss the facts and circumstances of the case and determine if relief is warranted. If no agreement is reached, the next level of management is consulted and, if necessary, a discussion of the case is held with the Chief of the Division involved.

It has been my experience during the years I have been involved with this process that it is rarely necessary to raise these issues to the Division Chief level. I have found management in all functions willing to revisit issues. Many times, reversing actions or using alternatives will not put the government's interest at risk and is in the best interest of the taxpayer and the government. It is incumbent upon me as the Taxpayer Advocate to build a credible relationship with our District Collection and Exam Managers so that when I bring a case to their attention, they can be assured it is one that deserves consideration. I realize that there may be instances when a Chief may disagree with the relief that should be provided; thus far I have not been presented with this situation. It has not been necessary to use my authority to issue a Taxpayer Assistance Order in the years I have been in this position.

During FY96, in the Connecticut/Rhode Island District, 65.6% of those cases where hardship was found to exist resulted in relief provided to taxpayers. For those who were not provided relief 6 % were due to the law preventing change. I will address this issue later in this testimony.

I offer the following examples where we have provided relief to taxpayers. Many times, taxpayers will write or walk into my office and request relief from a wage or bank levy (attachment of funds) because it has attached their only means of support. These levies can be the result of a breakdown in communications by the service or the taxpayer, inaction by the taxpayer, or a combination of both. In most of these instances, we can provide relief and allow the taxpayer some type of alternative arrangement such as an Installment Agreement. These cases are not complex and are quickly resolved. However, they provide good examples of how someone who gets caught up in the system can get relief and continue to meet their tax obligation.

Unfortunately, not all situations which come across my desk are this simple and easily resolved. An example would be taxpayers who have been assessed through the Service's Substitute for Return Program (SFR). These are people who have not, for whatever reason, filed returns for several years. The tax liabilities through SFR are sometimes extremely large and taxpayers' financial position is such that they are unable to pay the tax, interest and penalties associated with these tax years. Many times, these taxpayers are referred to Problem Resolution since they disagree with the tax legally assessed by the Service in the absence of their original returns. Usually, we can obtain correct returns from the taxpayer and expedite the adjustments to reflect the correct tax. If there is a remaining balance, we instruct them as to payment alternatives.

I do not want to paint a picture that everyone who seeks assistance through my office and files an Application for Taxpayer Assistance Order is deserving or receives the relief requested. Providing assistance and relief to taxpayers through this procedure becomes a delicate balancing act. As the Taxpayer's Advocate I must keep in mind what is fair for all taxpayers. There are times when, in the interest of fair and consistent treatment, I do not provide the relief requested. An example would be when a taxpayer requests adjustments to an Installment Agreement to allow expenses which are beyond the guidelines set in the service's allowable expense criteria. Another situation, which is not uncommon, is businesses requesting relief from enforcement action to collect payroll taxes. Many times these taxpayers are repeat delinquents and have been given several opportunities to comply with the tax laws. While I am sensitive to their economic position and will ensure that all alternatives are explored, it would be unfair to allow them to use withholding taxes to remain in business, while the vast majority of taxpayers comply.

There are also instances when we are unable to provide relief to taxpayers due to the law preventing us from taking an action. An example is a taxpayer who may have undergone some event in his or her life that has contributed to not filing returns for several years. Taxpayers in this position will file all prior returns, some of which are refund returns. Others may have a balance due. If the statutory period for claiming a refund has passed it is difficult to explain why the Service cannot allow the credit, while at the same time the Service is requesting they pay additional amounts to cover the balance due. This issue is addressed in the Advocate's Report on Legislative Proposals. If this provision were adopted in some format, it would provide us the authority to assist taxpayers who are trying to comply but are faced with liabilities that are overwhelming. I believe this will help change the public perception that the tax system is unfair, and even excessively punitive, on this issue. The recent provisions of TBOR II, specifically those allowing us to provide relief in certain situations regarding liens and levied property, will assist us in aiding taxpayers. The broadening of interest abatement authority to include managerial acts should also help us to provide relief to taxpayers when the amount of interest they are assessed is excessive through no fault of their own. This is an area that taxpayers view as extremely unfair.

One final issue I would like to address is the cost to taxpayers for electronic filing and the need for assistance with the preparation of tax returns. This year, the Connecticut/Rhode Island District is offering walk in assistance at least one day a week in each of our offices. Electronic filing is offered free to those who have all the necessary information when they come into the office. In addition, there are slightly over 200 Tax Counseling for The Elderly (TCE) sites and 75 Volunteer Income Tax Assistance (VITA) sites located throughout the two states. Hopefully, this will assist in making the 1996 Filing Season a better experience for Connecticut/ Rhode Island Taxpayers.

I truly believe that as the Internal Revenue Service continues to administer the tax system, and strives to do so more efficiently, the Taxpayer Advocates at all lev-

els will play an important role. Technological advancements, tax law changes and recent reorganization efforts within the Internal Revenue Service make it more important than ever that the taxpayer have a place to turn within the system for help. As Advocates, we need the continued support of all IRS executives at all levels. I believe that maintaining a line of authority with the District Director facilitates accomplishing many of our goals. Placing the Advocate's position as an Independent Office may make the effectiveness of his role more difficult to achieve, especially to future Advocates. Having said that, I also would like to point out that ensuring the Advocate's position is placed at a grade level that legitimizes the authority and responsibility that go with the job is necessary to ensure a respectable peer level and independence of the Advocate. I believe we play an important role in enhancing the confidence and credibility of the organization with the taxpaying public. I believe I speak for all when I say we are committed to listening to taxpayers' individual and collective issues and ensuring that each individual receives the courteous, professional, fair and consistent treatment to which they are entitled.

Chairman JOHNSON. Thank you very much.
Mr. George.

**STATEMENT OF TOM GEORGE, DISTRICT TAXPAYER
ADVOCATE, SOUTH TEXAS DISTRICT, INTERNAL REVENUE
SERVICE, AUSTIN, TEXAS**

Mr. GEORGE. Madam Chairwoman and distinguished Members of the Subcommittee, I appreciate the opportunity to be here today to discuss with you the Problem Resolution Program and the role of the District Taxpayer Advocate.

For the past 7 years, I have served as a Taxpayer Advocate, formerly entitled the Problem Resolution Officer, for the South Texas District, and that was formerly called the Austin District. Prior to this assignment, I was a Revenue Officer assigned with the difficult and sometimes complex responsibility of collecting delinquent taxes and returns from both individual taxpayers as well as businesses. I have had the opportunity to serve on a number of national and regional task groups, including an advocacy project which looked at tax issues that affect divorced and separated taxpayers.

In my role as a District Taxpayer Advocate, I am responsible to ensure that taxpayers' rights are protected, serve as an advocate for the taxpayer within the Internal Revenue Service, and represent their many needs and interests. To assist me in this role, the Taxpayer Bill of Rights was enacted in 1988 and expanded by the Taxpayer Bill of Rights 2 in 1996.

The Subcommittee has asked me to focus on the provisions of the bill that authorizes the Taxpayer Advocate or his or her representative to issue a Taxpayer Assistance Order when a taxpayer is suffering or about to suffer a significant hardship as a result of the administration of the tax law. The taxpayer or his or her representative can ask for a Taxpayer Assistance Order by letter, by phone, or by completion of the form 911, Application for Taxpayer Assistance Order, ATAO.

In addition, Internal Revenue Service employees are responsible for identifying situations that warrant the immediate intervention of the Advocate or the Taxpayer Advocate, and during the review of the application and hardship, all enforcement actions are suspended.

I would like to share with you a couple of scenarios in which it was necessary for me to invoke the ATAO authority. Both of these examples involve cases that occurred prior to the Taxpayer Bill of Rights 2.

The first scenario concerns the filing of a Federal tax lien on real property. The scenario also involves three different parties. Because of the complexity of this issue, I would like to read verbatim the background that created the issuing of the order.

Our taxpayers, the taxpayers referred to my office, purchased a parcel of land from a local home developer the first part of 1986 and had built a home on that property the same year. The warranty deed was properly recorded in the county where the property was located at the time of the purchase. The developer purchased the land from the original owner in 1994, 2 years prior to our taxpayers purchasing that property. However, the developer inadvertently filed the original warranty deed in an adjacent county instead of the county where the property was physically located.

In 1993, the original owner accrued Federal tax liabilities and a Federal tax lien was filed. The Federal tax lien attached to all real property and the rights to property owned by the original owner, including our taxpayers' property. The taxpayers owed no Federal taxes and they were in full compliance with all Federal filing requirements. They were unaware that a Federal tax lien had been filed on their property until they attempted to sell it in the fall of 1995.

They applied for a Certificate of Discharge of Property from Federal Tax Lien and that request was denied. The Service maintained that the original deed was not properly filed and that our taxpayers did not have clear title prior to the filing of the Federal tax lien against the original owner in 1993.

The title company involved in the original transaction was no longer in business. The underwriter never issued the title insurance policy because it went into receivership.

Our taxpayers were referred to me for assistance. At that time, they knew nothing about the Problem Resolution Officer or the role of the Problem Resolution Program at all. Hearing the circumstances surrounding their unique situation, I initiated an ATAO on their behalf. After additional research was completed, I concluded that the government could assert legitimate legal theories to support the lien but the equities would not favor the Service. A Taxpayer Assistance Order was issued to relieve the hardship and a Certificate of Discharge was issued to the taxpayers.

The second scenario, and I know I am limited with time, involved a business. The first scenario involved an individual taxpayer. The second one involved a seizure of a business that had been what we refer to as continuing accruing trust fund taxes. After investigation, the taxpayer came to me. I researched his inquiry and discovered that the taxpayer had also accrued the same type of taxes in another State prior to moving to the State of Texas.

The taxpayer had also made an attempt to contact the Service over a period of about 4 months to request an installment agreement so that he could satisfy those back taxes. The first contact that he received was with our Collection Division when a revenue officer knocked on the business door asking for full pay. The tax-

payer was unable to full pay the account and filed an Application to Relieve Hardship on those grounds.

The compliance check also conducted by the revenue officer revealed that the taxpayer had failed to pay employment taxes in another business. Because the taxpayer was considered a repeat delinquent taxpayer, the Service denied the request for a short-term installment agreement. This company had a number of employees. They did have cash flow problems. They were having problems with costs of starting up a new business. But one thing that was in their favor was that they had struggled for a year and finally landed a very large purchase order from a major company in Texas.

After reviewing the circumstances surrounding that case, I determined that because of the number of employees affected, because of the likelihood of them being able to get back into compliance, I authorized a short-term installment agreement. The taxpayer full paid the account within about 60 days.

In closing, I would like to emphasize, this program has been highly successful in helping taxpayers. The majority of hardship applications received in PRP are resolved administratively by the Advocate. Rarely is there a need to invoke the ATAO authority, but we will invoke it when it is necessary, and in the two examples that I gave you here this afternoon, I felt it was necessary.

This concludes my opening statement. I would be happy to address any questions you may have at this time.

[The prepared statement follows:]

**Statement of Tom George, District Taxpayer Advocate, South Texas
District, Internal Revenue Service, Austin, Texas**

I appreciate the opportunity to be here today to discuss the Problem Resolution Program and the role of the District Taxpayer Advocate. For the past seven years, I have served as the Taxpayer Advocate, formerly titled the Problem Resolution Officer, for the South Texas District. Prior to this assignment, I was a revenue officer assigned with the difficult and sometimes complex responsibility of collecting delinquent taxes and returns from both individual taxpayers and businesses. I have had the opportunity to serve on a number of national and regional task groups including an advocacy project which looked at tax issues that affect divorced or separated taxpayers.

In my role as the District Taxpayer Advocate, I am responsible to ensure that taxpayer rights are protected, serve as an advocate for the taxpayer within the Internal Revenue Service, and represent their interests and concerns. To assist me in my role as an advocate, the Taxpayer Bill of Rights was enacted in 1988 and expanded by the Taxpayer Bill of Rights II in 1996.

The Committee Staff has asked me to focus on the provision of the Bill that authorizes the Taxpayer Advocate or his/her designee to issue a Taxpayer Assistance Order (TAO) when a taxpayer is suffering, or is about to suffer, a significant hardship as a result of the administration of the tax law. The taxpayer or his/her representative can ask for a TAO by letter, phone, or by completion of the Form 911, "Application for Taxpayer Assistance Order" (ATAO). In addition, Internal Revenue Service employees are responsible for identifying situations that warrant the immediate intervention of the Taxpayer Advocate. During the review of the application and hardship by the Advocate, all enforcement actions are suspended.

I would like to share with you a couple of scenarios in which it was necessary for me to enforce, that although most TAOs are resolved informally, there are occasions when it becomes necessary to invoke the TAO authority we have been provided. Both of these examples involved cases that occurred prior to the enactment of TBOR II.

The first scenario concerns the filing of a Notice of Federal Tax Lien (NFTL) on real property. The scenario involves three different parties. Our taxpayers, the taxpayers referred to my office, purchased a parcel of land from a local home developer the first part of 1986 and had a home built on the property the same year. A Warranty Deed was properly recorded in the county where the property was located at

the time of purchase. The developer purchased the land from the original owner in 1984. However, the developer inadvertently filed the original Warranty Deed in an adjacent county instead of the county where the property was located. In 1993, the original owner accrued Federal tax liabilities and a NFTL was filed. The NFTL attached to all real property and rights to property owned by the original owner, including our taxpayers' property. Our taxpayers owed no Federal taxes and were in full compliance with all Federal filing requirements. They were unaware that a NFTL had attached to their property until they attempted to sell the home in the fall of 1995. They applied for a Certificate of Discharge of Property from Federal Tax Lien, which was denied. The Service maintained that the original Deed was not properly filed and our taxpayers did not have clear title prior to the filing of the tax lien against the original owner in the spring of 1993. The title company involved in the original transaction was no longer in business, and the underwriter never issued the title insurance policy because they went into receivership. They were referred to me for assistance. Hearing the circumstances surrounding their unique situation, I initiated an ATA0 on their behalf. After additional research was completed, I concluded that the government could assert legitimate legal theories to support the lien but the equities would not favor the Service. A Taxpayer Assistance Order was issued to relieve the hardship, and a Certificate of Discharge was issued to our taxpayers.

The second scenario concerns delinquent employment taxes and the seizure of the business assets. The business had pyramided unpaid employment taxes in excess of \$100,000.00 and was having cash flow problems along with start-up costs. The company employed a large number of employees and had just received a large purchase order from a major company. In an attempt to bring the company into compliance, they hired an accountant to run the day-to-day operation of the company. The taxpayer had attempted to contact the Service and request an installment agreement (IA) and pay the delinquent employment taxes over a twelve month period. The taxpayer did not receive a response from the IRS until he was contacted by our Collection Division approximately four months later. Once contacted by a revenue officer, the taxpayer attempted to negotiate an installment agreement for six months. As a matter of procedure a compliance check of the taxpayer's filing requirements was completed. The compliance check revealed the taxpayer had failed to pay employment tax for another business he owned out of state prior to moving to Austin. Because the taxpayer was considered a repeat delinquent taxpayer and currently pyramiding trust fund taxes, the Service denied the request for an IA based on current collection procedures outlined in the Internal Revenue Manual (IRM). The taxpayer was advised to full pay or the business would be seized. Since the taxpayer was unable to satisfy the liability, the assets were seized and the company closed. The taxpayer filed an ATA0 with my office. After reviewing the application and based on the description of the significant hardship, the number of affected employees, and the fact the company had just received a large purchase order, I issued a TAO to release the seizure and allow a short installment agreement. The company full paid the liability in less than sixty days.

In closing, I would like to emphasize that I believe this program has been highly successful in helping taxpayers. As I mentioned, the majority of the hardship applications received in PRP are resolved administratively at the local level by the district advocate and the functional area. Rarely is there a need to invoke the TAO authority. But on the limited occasion, it does become necessary, we can and do take the appropriate action.

This concludes my prepared comments. I would be happy to address any questions you may have.

Chairman JOHNSON. Thank you very much, Mr. George.
Mr. George is from Texas and Mr. Romito is from Pittsburgh, Pennsylvania. Welcome, Mr. Romito.

STATEMENT OF LOUIS ROMITO, ASSOCIATE TAXPAYER ADVOCATE, PENNSYLVANIA DISTRICT-PITTSBURGH, INTERNAL REVENUE SERVICE, PITTSBURGH, PENNSYLVANIA

Mr. ROMITO. Thank you. Madam Chairman and distinguished Members of the Subcommittee, I appreciate the opportunity to be here today to talk to you about the operations of a field-level Taxpayer Advocate. As was noted, I am the Associate Taxpayer Advocate for the Pennsylvania District located in the Pittsburgh office. I have been the Taxpayer Advocate in Pittsburgh for the past 8 years.

As Mr. Monks noted in his program overview and his report, we have increased our emphasis on the application of process analysis techniques for the long-term resolution of taxpayer problems, but we still need to solve the short-term problems and in doing so, we encounter situations that exemplify the continuing spirit and commitment of the Problem Resolution Program.

Foremost among those situations are those involving requests for relief from hardship. The numbers of these requests are relatively small in relation to our overall case inventory, yet they have the most immediate impact on the taxpayer.

Although regular Problem Resolution cases are worked in the function that has the responsibility for the issue that is involved, these special hardship requests are worked in my office by my analysts or myself and we have encountered suicide threats, physical threats, and emotional grief. But fortunately, we have been able to provide relief in over 60 percent of those cases that are qualified for consideration.

The current top 20 systemic problems facing taxpayers are addressed in Mr. Monks' report, also. The resolution of these problems will measurably reduce the direct burden that the Service has placed on the taxpayer. However, there are other organizational areas of concern that can be addressed through advocacy-based actions that will indirectly reduce taxpayer burden and provide improved service to the taxpayer. Perhaps they reflect concerns unique to a discontinued district. Nevertheless, as an advocate for the taxpayer, they are suggestions that I feel I have a responsibility to pursue.

For instance, because of our restructuring, the concept of centralization of operations in the remaining headquarters cities seems to have been adopted as a policy. If the Service must centralize operations, the operations should be centralized in those locations that can best carry out the mission, irrespective of whether that location is a headquarters city. Our computer and our telecommunication capabilities transcend geographic considerations.

There are also a number of computer-related needs at the field office level. The Advocates need to have all PRP technicians work their cases on a computer, online. We need to have our remote offices on the PRP case network so that referred cases can be transferred electronically in order to meet our cycle time objectives.

We need to have computer networks that stay up, and when they go down, we need to have help near at hand to get them back up again. Help desks hundreds of miles away are only a partial solution and outsourcing to contractors who will have response time allowances, who will need extensive training and monitoring, and

who will be another source of security and confidentiality concerns is, in this instance, not the answer.

As the report notes under Communication, the understanding of our role as an advocate for the taxpayer requires continued education of executives, managers, and employees. Much of the complaint activity that we get results from our frontline contact employees forgetting a basic concept—to treat a taxpayer as they would want to be treated if the roles were reversed. Employees need to remember that their contact may be a once in a lifetime experience for a taxpayer. The taxpayer's perception of the IRS is formed in great part from that contact and the perception can have an effect on the taxpayer's future voluntary compliance.

Examples at the other end of the organizational spectrum of situations that could have benefited from sensitivity to taxpayer impact are presented in my written statement.

My final comment is on the number one taxpayer concern highlighted in the Advocate's Report—the complexity of the tax law. As an Advocate, I have never heard any taxpayer accept the socioeconomic rationale for the complexity of the Tax Code. To the contrary, irate taxpayers are frustrated with the system and its perceived heavy-handedness and unfairness. Taxpayers ask me why the IRS runs a welfare system or they point out how big businesses get taken care of but the little guys get no consideration. Taxpayers don't have the time and the money to fight the system. As a result, they often succumb to its enormity and complexity.

I would only ask that the distinguished Representatives and their colleagues anticipate the impact on the taxpayer as they contemplate legislation that would use the machinery of the Service to implement social and economic change.

Thanks for the opportunity to speak with you.

[The prepared statement follows:]

Statement of Louis Romito, Associate Taxpayer Advocate, Pennsylvania District-Pittsburgh, Internal Revenue Service, Pittsburgh, Pennsylvania

I appreciate the opportunity to discuss the operation of a typical field level Taxpayer Advocate's office. In particular, I would like to share my perceptions of the Advocate's Report, examples of my interactions with taxpayers, and suggestions for improving the service the Problem Resolution Program staffs can provide to the tax-paying public.

I have thirty-one years of government service as a program analyst in positions with the Air Force Logistics Command, General Services Administration, and the Internal Revenue Service. I have been the IRS Taxpayer Advocate in the Pittsburgh Office for eight years, and previously served as the Disclosure Officer and the Public Affairs Officer.

When the Taxpayer Bill of Rights 2 (TBOR2) was implemented this past July, I received a copy of the Bill as well as a Summary of Act Provisions document prepared by our Office of Chief Counsel. The paper delineated the activities that the report was to address. In comparing the Report to the expectations, I think the report meets the challenge. However, the Report did indicate that feedback of the problems facing taxpayers came from the regional offices. The field did, in fact, get to provide input which was assimilated into the regional response.

As the Advocate notes in the Program Overview of the report, we have increased our emphasis on the application of process analysis techniques for the long term resolution of taxpayer problems. Still, we need to solve the short term problem and, in doing so, we encounter situations that exemplify the continuing spirit and commitment of the Problem Resolution Program.

Foremost among these situations are those involving requests for relief from hardship, Taxpayer Assistance Order (TAOs). The numbers of these requests are relatively small compared to our overall case inventory, yet they have the most impact on the taxpayer. Although regular Problem Resolution cases are worked by techni-

cians located in the function responsible for the respective issue, these special hardship requests are handled in my office by my analysts or me. The situations are almost as traumatic to me as they are to the taxpayer. We have encountered suicide threats, physical threats, grief, and emotional breakdowns. Fortunately, we have been able to provide relief in 61% of the cases that qualified for consideration.

As implied before, the mission of the office has two parts. The first provides appropriate relief to the problems that taxpayers are currently encountering. So in Fiscal Year 1997 we are concentrating on reducing the time it takes for Problem Resolution to resolve a taxpayer's problem, otherwise known as cycle time, and increasing the quality of the way we resolve these problems in terms of timeliness, communication with the taxpayer, and accuracy. The second part addresses continuing long term and/or systemic problems through the application of process analysis techniques that identify and allow us to correct the underlying causes of taxpayer problems. This second part is referred to as the advocacy component of our mission.

The current top twenty of these systemic problems are addressed in the report. The resolution of these problems will measurably reduce the burden we have placed on the taxpayer. However, in addition, there are other organizational areas of concern that can be addressed through advocacy based actions that will also reduce taxpayer burden. These actions are not as high profile as the Top Twenty and may be transparent to the taxpayers. But they are important because of their potential impact at the field office level. In my opinion, these advocacy actions would have a long term beneficial effect in reducing taxpayer burden and providing improved service to the taxpayer. Perhaps they reflect concerns unique to a discontinued district. Nevertheless, as an advocate for the taxpayer, they are suggestions that I feel I have a responsibility to pursue. My efforts may be perceived at times to ignore political reality, but that's the line the Advocate sometimes has to walk between the best interest of the taxpayer and the best interest of the Service.

If the Service intends to run like a business, it needs to use good business sense. For instance, because of our restructuring, the concept of centralization of operations in the remaining headquarters cities seems to have been adopted as policy. In any school of management thought, you can find as many proponents for decentralization as you can for centralization. If the Service must centralize operations, the operations should be centralized in those locations that can best carry out the mission, irrespective of whether that location is in a headquarters city. Our computer and telecommunication capabilities transcend geographic considerations.

There are also a number of computer related needs at the field level that may have been overlooked in the Service's preoccupation with Tax Systems Modernization. Filling these needs will enable the Advocates to deliver the advocacy program that we have promised.

For instance, we need to have all PRP able to work their cases on a computer—on line. This will reduce case processing time by eliminating unwieldy paper casework and increase the quality of the casework by providing instantaneous managerial review of casework activity. We need to have our remote offices on the PRP case networks so referred casework can be transmitted electronically in order to meet our cycle time objectives. We need to have computer networks that stay up. The greatest danger in being dependent on a sophisticated computer network infrastructure is that if the system goes down we are out of business and so is the taxpayer. And defective programs need to be corrected expeditiously—in weeks, not months.

In the case of system failure, we need to have competent help at hand to get the system up. Radical downsizing of the Information Systems staff is counterproductive. Help desks hundreds of miles away are only a partial solution and outsourcing to contractors who will have response time allowances, who will need extensive training and monitoring, and who will be another source of security and confidentiality concerns is, in this instance, not the answer. The point to this litany is that in considering implementing one or more of these suggestions, management may do a cost benefit analysis and see only a few days case processing time being saved here and there. To us that time may be insignificant. But to the taxpayer, my customer, a few days can be an eternity.

Another important factor that the Service needs to keep in focus is the functional support our program requires. As the Advocate's Report notes under IID, Communication, the understanding of our role requires continued education of executives, managers, and employees. All functions need to remember that taxpayers in our program have already been in the system—the normal channels—and, for whatever reason, the system has failed them. This failure is not perceived, projected, or proposed. It is real and it is now. The efforts to correct and resolve the problem should not be secondary to competing priorities.

Beyond that is the fact that much of the taxpayer complaint activity we get results from our contact employees forgetting a basic concept—to treat a taxpayer as

you would want to be treated if the roles were reversed. I am sympathetic towards the contact employee who encounters the same scenario many times a day, every day for twenty years. But those employees need to remember that their contact may be a once in a lifetime experience for the taxpayer. The taxpayer's perception of the IRS is formed, in a great part, from that contact. And that perception can have an effect on the taxpayer's future voluntary compliance.

This need, to be aware of the bottom line impact of our actions on the taxpayer is also applicable to higher levels of the organization. For example, recently the Advocate had to request an opinion from the General Litigation Office of our Chief Counsel concerning the release of a lien or levy under Section 501 of TBOR2. We asked when the Advocate would need to make a determination that such a release would be in the best interest of the taxpayer. The response concluded that the authority to make a positive determination should be delegated to the Collection Division. I have yet to identify a situation when a release of a lien or levy would not be in the best interest of the taxpayer. Further, the release requires two determinations; the second being that the release is also in the best interest of the government. It would be inconsistent to also have that decision made by the Collection Division. This exercise could have been avoided if the legislative language had been less muddled.

Additionally, within the past year, the Service has implemented a little known process called the Collection Appeals Program for the use of taxpayers who disagree with the decision of a revenue officer who has proposed enforcement action such as lien, levy, or seizure. In theory, when petitioned by the taxpayer after the taxpayer has met with the Collection supervisor, the Appeals Office can decide in favor of the taxpayer and suggest some alternative collection method that may be more appropriate. Some reviews have indicated that the system is working. My limited observations suggest that Appeals, which is staffed by revenue agents, sees its involvement as being limited to determining procedural accuracy rather than questioning the judgment of a revenue officer or determining the appropriateness of any action taken by a revenue officer. I realize that a collection issue is not the same as an examination issue which can have an assessment reduced outside of Tax Court because of the hazards of litigation without questioning the judgment of the revenue agent. On the other hand, as an Advocate I feel the current Appeals philosophy, if I've interpreted it correctly, does not capture the spirit and intent of what a Collection Appeals process should be.

My final comment is on the number one taxpayer concern highlighted in the Advocate's Report—Complexity of the Tax Law. The text of the report states that the complexity is not intentional but rather is the cumulative effect of numerous tax law changes, each of which is enacted for a presumably desirable public purpose. The Commissioner was just as diplomatic in her testimony last month before the National Commission on Restructuring the Internal Revenue Service. She stated that as our society and economy have grown more complex, so have parts of the Code. The complexity arose from a struggle for fairness and the need to keep pace with an ever-changing economy.

As an Advocate, I have never heard those socio-economic arguments from any taxpayer. To the contrary, irate taxpayers are frustrated with the system and it's perceived heavyhandedness and lack of fairness. Taxpayers ask me why the IRS runs a welfare system or they point to how big business gets taken care of but the little guy gets no consideration. Taxpayers are aware of what's going on. They just don't have the time and money to fight the system. As a result they often succumb to its enormity and complexity. I would only ask that the distinguished representatives anticipate the impact on the taxpayer as they contemplate legislation that would use the machinery of the Service to implement social and economic change.

Thank you for the opportunity to speak with you.

Chairman JOHNSON. Thank you for being with us, Mr. Romito.
Ms. Goldstein from Wisconsin.

**STATEMENT OF ELAYNE M. GOLDSTEIN, DISTRICT TAXPAYER
ADVOCATE, MIDWEST DISTRICT, INTERNAL REVENUE
SERVICE, MILWAUKEE, WISCONSIN**

Ms. GOLDSTEIN. Thank you. Madam Chairman and distinguished Members of the Subcommittee, it is an honor for me to be here today to talk to you about the Taxpayer Advocate's Report to Congress. I was very pleased to see that many of the issues that we have raised to the Taxpayer Advocate in fact, have shown up in the report that he submitted to you.

My name is Elayne Goldstein and I am the Taxpayer Advocate for the Midwest District. The Midwest District consists of the three States of Wisconsin, Iowa, and Nebraska. I have been a Taxpayer Advocate for 8 years and in the Problem Resolution Program a total of 11, 3 of those as a Problem Resolution Specialist.

In my opinion, both as a Taxpayer Advocate and a taxpayer, the number one problem for taxpayers today is the difficulty with the tax law. The complexity of the law pervades almost every problem resolution case I see coming into the Problem Resolution Program. Whether it is a business taxpayer who is having difficulties complying with the Federal tax deposit system or a low-income taxpayer that is having difficulties complying and getting credit for the earned income tax credit, most of the problems I see coming into the program stem from the complexity of the tax law.

In many cases, it is not only the complexity of the tax law that creates problems for the taxpayer but their inability to seek out or have the resources available to find out about how to comply with the tax law. The IRS is very often faced with the very difficult task of reducing tax law into easy to understand language for the general public. We make attempts to do that in our publications and in our instructions and in our tax forms.

However, very often, because of the complexity of the law, it is difficult, if not impossible at times, to reduce the language to easy to understand language for the general public. Any tax legislation that is passed must consider the impact the wording of that legislation will have on the ability of the IRS to put that law into practice.

I believe the way to simplify the earned income tax credit is to eliminate it from the Tax Code. The funds could be made available through another agency that would have the ability to check on the eligibility of the credit on the front end for those people who need it. Generally at the IRS, we first send the money to the taxpayer and we ask questions later. When we then make an attempt to collect that money back from that taxpayer who we determine is not eligible for that credit, we are perceived as being harsh and cruel.

It is my opinion that if the earned income tax credit, or whatever the name would be for this particular benefit, would be administered through another agency, it would allow that agency to apply a system where the criteria is checked up front and that only the people who are, in fact, entitled to the benefit, receive it.

One of the burdens placed on taxpayers today, particularly business taxpayers, is the requirement to verify taxpayer identification numbers for payees on documents they transmit to the IRS. Although the business may exercise business care in obtaining and verifying those identification numbers, they may at times still be

subject to a penalty for providing an incorrect number to the IRS. If that is not the case, they still need to use their valuable resources to track down the taxpayer so that they can go through the process of validating the identification number that in the front end may have been incorrect.

It would greatly reduce the burden placed on taxpayers and the errors made if the IRS was given the resources needed to establish a system where the payor could call into the IRS and verify the identification numbers up front.

Many of the calls that I receive in the Problem Resolution Office, whether it is from taxpayers, practitioners, or congressional staff, have to do with complaints about their inability to get into the toll-free system. Those complaints also include those from people who, although able to get into the system, are unable to speak to what they refer to as a "live person."

While I strongly believe that the IRS has made enormous strides in providing alternative sources of information for taxpayers, such as the availability of tax forms, publications, answers to frequently asked questions on the IRS home page of the Internet, we have provided a separate telephone number for people who have refund inquiries, and have tax information on over 150 tax topics available to the public, I still believe there is a certain segment of the population that is not able to reach those alternative sources of information, either because they do not have the resources to allow them to do that or, in fact, they do not have the sophistication to use those alternative sources.

I believe a government that imposes laws and regulations upon its citizens has an obligation to explain those laws and regulations to those people. While I do not believe that a lot of these problems can necessarily be cured by throwing money their way, I do believe that Congress needs to recognize that unless we give the taxpayer the information they need to do a complete and accurate tax return, our voluntary compliance rates are not going to increase.

The answer may be that additional resources are needed on our toll-free system, I do not think that should be discounted. If that is what is needed to provide a level of service that is acceptable to our customers so they can comply with the tax law, I believe that is what needs to be done.

We need to attack the causes of taxpayer burden head on and I do not envy your task, but I do believe it is important that Congress seek the opinion of field personnel in order to do reduction in taxpayer burden justice, and I applaud your efforts in bringing those of us from the field before you to give you our opinion.

I would like to thank you again for the opportunity to speak to you today and I will be glad to answer any questions you may have.

[The prepared statement follows:]

Statement of Elayne M. Goldstein, District Taxpayer Advocate, Midwest District, Internal Revenue Service, Milwaukee, Wisconsin

It is an honor for me to appear here today to provide you with my assessment of the issues raised in the Taxpayer Advocate's Report to Congress. I was pleased to see that many of the issues raised by field personnel as those causing the greatest burden for taxpayers were included in this report.

My name is Elayne Goldstein and I am currently the District Taxpayer Advocate in the Midwest District. The Midwest District consists of the three states of Wisconsin,

sin, Iowa, and Nebraska. I have been the Problem Resolution Officer, now the District Taxpayer Advocate, for eight (8) years and in the Problem Resolution Program a total of 11, three of those years as a Problem Resolution Specialist.

It is my opinion, both as a District Taxpayer Advocate and a taxpayer that the most serious problem facing a taxpayer today is the complexity of the tax law. The complexity of the law pervades almost every Problem Resolution case I see coming into the program. Whether it is penalties assessed against a business for failing to deposit trust fund taxes correctly or it is a low income taxpayer who does not understand how to compute the Earned Income Tax Credit, the root cause of the problem is that the individual does not understand how to apply the tax law or have the resources to find out.

The IRS is very often faced with no other option than to explain the law in notices, publications, and instructions in a language that is not easily understood by the general public. We are very often challenged to simplify the language of the law; however, because of its complexity, it is difficult, if not impossible at times, to reduce it to easy to understand language. Any tax legislation must consider the impact the wording of that legislation will have on the ability of the IRS to put the law into practice.

I believe the way to simplify the Earned Income Tax Credit is to remove it from the tax law. The funds can be made available through another federal agency whose procedures allow them to qualify a person for the monies upfront. Through the tax system, we release the money first and ask questions later. The IRS is then perceived as harsh and cruel in its attempts to collect the money when it has been determined that the taxpayer is not eligible for the credit. An application system for eligibility for the Earned Income Tax Credit through another agency would, in my opinion, ensure that people who are eligible get the benefit.

One of the burdens placed on taxpayers, particularly business taxpayers, is the requirement to verify the Taxpayer Identification Numbers of payees they place on information documents transmitted to the IRS. Although the business may exercise good business care in obtaining and verifying these numbers, they still face the possibility of being assessed a penalty for providing an incorrect number or must use their valuable resources to track people down. It would greatly reduce the burden placed on business taxpayers and the errors made if the IRS was given the resources to establish a system for payers to call into the IRS to verify the identification number upfront.

Many of the calls I receive in the Problem Resolution Office from taxpayers, practitioners, and congressional staffs are complaints about their inability to get through on the IRS toll-free lines. These complaints also include those from people, who although able to get through the lines, are not able to speak to a "live" person, as they refer to it. While I strongly believe the IRS has made enormous strides in making alternative sources of information available, such as tax forms, publications, and answers to frequently asked questions on the IRS Homepage of the World Wide Web, providing a separate number for refund inquiries and recorded tax information on almost 150 different tax topics, and the availability of tax forms by facsimile, there is still a certain segment of the population that either does not have the resources available to access these alternative sources of information or the sophistication to use them. I believe a government that imposes laws and regulations has an obligation to its citizens to provide a certain level of personal service to explain those laws and regulations. While I do not believe that this problem can necessarily be cured by throwing money at it, Congress has to recognize that voluntary compliance rates are not going to increase unless we can make sure all taxpayers have the information they need to prepare a complete and accurate tax return. If that means having to provide sufficient resources to increase the level of access to our toll-free system, then we need the commitment that this will be done.

We need to attack the causes of taxpayer burden head on and I don't envy your task, but I do believe it is important for Congress to seek out the opinions of field personnel on how we can make it better for the taxpayers of this nation. I applaud you for seeking out such opinions.

I would like to thank you for the opportunity to speak to you today and would be glad to answer any questions you may have.

Chairman JOHNSON. Thank you very much, Ms. Goldstein.

Ms. Williams from Jacksonville, Florida. You may be Ms. Thurman's constituent. Jacksonville is also the home of my new twin grandsons.

STATEMENT OF JEANNE WILLIAMS, DISTRICT TAXPAYER ADVOCATE, NORTH FLORIDA DISTRICT, INTERNAL REVENUE SERVICE, JACKSONVILLE, FLORIDA

Ms. WILLIAMS. I have been the North Florida Taxpayer Advocate, formerly the Problem Resolution Officer, for 10 years. I want to thank you for giving me the opportunity to be here today. It is a treat I did not think I would look forward to after 50 years with Internal Revenue, but it is one that I will always remember.

During 1996, we assisted over 7,000 taxpayers on issues ranging from individual taxpayer problems to complex corporate returns. We look for the root cause of why the problems were not resolved when they followed established guidelines. It is an area that we pursue very actively. We have many of the same top 20 issues in our district that Mr. Monks' report referenced but not necessarily in the same order.

During filing season, we have an increased volume of form 911, Application for Taxpayer Assistance Orders. I am going to talk more to the hardship manual refunds which we issue as opposed to the collection issues that the others have talked about.

They ask for expedited refunds of currently filed returns. Sometimes they have not filed the return, they send it to us and we issue the manual refund and then send the return for processing after we have had the check cut. These taxpayers have low income and must have their refund quickly. The cases are handled expeditiously to help them relieve hardships, such as evictions and the shutoff of utilities. In Florida, the eviction process is very quickly served. We ask for documentation of the hardship and they send us eviction notices, they send us utility cutoffs, their car is being repossessed. It is an area that gets a lot of attention during filing season.

In addition to the normal expeditious contact for taxpayers experiencing hardship, the Service has a procedure in place where the taxpayer is provided the relief much quicker. We have an excellent working relationship with the functions as do the other Taxpayer Advocates except for the one gentleman. I never have felt it necessary to issue a Taxpayer Assistance Order.

One example I can remember, and it is not in the testimony, was a foreign gentleman who had put a car in layaway with a used car dealer to send to his father. Well, the used car dealer had a tax problem and we seized the car lot and sold all the vehicles in the lot, including this gentleman's car. Of course, he filed a 911 and was told, sorry, your car is gone. I mean, when he went to collection. So a 911 was filed with us. We investigated and that was the initial response we received, that there is nothing we can do. We sold the car.

But I elevated it to the Division Chief and his answer was, we were wrong to sell that car. Let us give the man his money back, and that is what was done, which is the way it should be, which is why I say we have not felt it necessary to issue a Taxpayer As-

sistance Order when you can deal with your counterparts and resolve the problem.

One area that I feel we need to change in the law is the area that prohibits us from issuing a manual refund when there is a debtor master file. That is where another agency has notified us that the taxpayer owes them money and they have a refund coming, they have a hardship, but we are prohibited from issuing that refund as long as they owe that debtor master file. If they owe taxes, we can bypass the taxes and give them a refund, but if they owe another agency, we have no authority to bypass that.

The kind I see most are those where there is a single mother who years ago perhaps went to college, owes student loans. She now has two or three children and is desperate for the money and there is nothing we can do to give her that money because she owes another agency. But that is something you would have to fix.

We also deal with the earned income credit. Taxpayers live on minimum wages and we expedite the refunds on those, also.

One activity we are doing in my district which I am very proud of is we have a conflict management initiative. We were chosen as a prototype location to test the applicability of conflict management tools and techniques for frontline employees in the performance of their duties. My program was chosen because of our direct involvement with the Application for Taxpayer Assistance Orders and the collection field function.

Historically, our process to collect taxes has been position based. This initiative has a unique twist. Although taxpayers often dislike tax administration, we believe that using the interest-based approach will enhance our skills in identifying and addressing taxpayers' concerns. We also hope that using this approach to problem solving will help taxpayers recognize their interests are being considered even if the outcome cannot be changed.

What we have done is identified one revenue officer group and we brought the group in plus all of my collection employees and trained them in conflict management to enable them to deal better with each other, with the public, and even in their own personal lives. We are now in a monitoring stage. We also have a control group which did not receive the training, so we are checking the results of the group that received the training against the results of the group that did not receive any training to see if this, in fact, is something that we can apply in more areas of the Service.

I strongly agree with Mr. Monks' recommendation that something be done about the statute for refunds when several delinquent returns are filed and the taxpayer is not given the opportunity to have at least a credit applied to their accounts. Again, I see my light is on, and I thank you very much for allowing me to appear before you.

[The prepared statement follows:]

Statement of Jeanne Williams, District Taxpayer Advocate, North Florida District, Internal Revenue Service, Jacksonville, Florida

My name is Jeanne Williams and I have been the North Florida District Taxpayer Advocate, formerly Problem Resolution Officer for ten years. Thank you for giving me the opportunity to be here today as the Taxpayer Advocate for the North Florida District. Due to Code Section 6103, relating to restrictions on disclosure, the examples I am going to discuss are some of the general scenarios that I may face and do not reflect individual circumstances of a particular taxpayer.

Whenever a taxpayer's problem is accepted into the Problem Resolution Program (PRP), it is generally because the normal procedures for resolving the problem have failed. We have a two-fold responsibility:

- to resolve the taxpayer's problem in a professional manner as quickly as possible; and,
- to identify areas where we can improve our processes and be more efficient.

The North Florida District has been very active in both areas. During 1996, we assisted over 7000 taxpayers on issues ranging from individual taxpayers' problems to complex corporate returns. Looking for the root cause of why taxpayers' problems were not resolved when they follow the established guidelines is also an area that we pursue very actively. An example of our involvement in improving our internal processes are the various projects that we have conducted in the last few years. We have many of the same top 20 issues in our district but in different ranking order from the national identified issues.

During Fiscal Year 1996, we conducted a project involving Collection PRP issues. The average days to resolve these issues in our office was 78 days. We made several improvements in the way cases were processed. The average days to resolve this issue dropped to 30 days. We are very concerned about timely contact with taxpayers. When a taxpayer reaches our office, they have already had multiple contacts with Service employees. It is imperative that we respond as quickly and professionally as possible to help improve the image of the Service.

During the filing season, we have an increased volume of Forms 911, Applications for Taxpayer Assistance Orders (ATAOs) for expedited refunds on the current filing of returns. In the majority of these cases, the taxpayer has a low income and must have the refund quickly. These cases are handled expeditiously for the taxpayer to help relieve hardships such as evictions and shut-off of utilities. In Florida, the eviction process can be very quickly served. Documentation by the taxpayer of the hardship is required. In addition to the normal expeditious contact to the taxpayer experiencing the hardship, the Service has a procedure in place where the taxpayer is provided relief much quicker. Our District has developed an excellent relationship with all Division Chiefs and has not had to issue a Taxpayer Assistance Order. Cooperation by all levels of managers has enhanced our ability to assist the taxpayer unless the issue involves an area where the law prevents us from allowing the relief. For example, IRC Section 6402(c) generally prohibits the issuance of a refund if there is an outstanding liability to any federal agency.

During fiscal year 1996, 61% of our ATAOs where hardship was found to exist, resulted in relief provided to taxpayers. For those who were not provided relief, 3.1% were due to the law preventing the change. I want to give examples of cases where we have provided relief to taxpayers. Taxpayers will contact their local offices, call into the toll-free assistors, or contact my office seeking relief from their hardships. These taxpayers live on minimum wages and need their refunds of earned income credit to prevent evictions and/or having their electricity, water, or gas shut off. We are able to provide relief by expeditiously processing their refunds. We have the ability to manually prepare the refunds, and the taxpayers can expect their checks within 10 days. We have provided homeless people with their refund checks by having the checks sent directly to my office or the local offices where the taxpayers reside in order to provide the relief when the taxpayers have no permanent addresses. Each case received is reviewed thoroughly for determination of true hardship. We work diligently to prevent our system from being abused by individuals seeking a fast refund without a legitimate reason. We want to assist the true hardship cases and provide them relief if at all possible. In some instances, we are unable to provide relief to the taxpayer due to other federal agency liabilities. The law requires that the refund be applied to these liabilities. Many times the refund has already been applied to their tax liabilities prior to the taxpayers' contacts with our office, and we are unable to assist them. For many single mothers raising children with no child support, this creates an extreme hardship for them. However, in these cases, we instruct the taxpayer of other alternatives for the next year, such as requesting Advanced Earned Income Credit through their employers. This will not relieve their immediate problem, but will provide relief in future years.

One activity in my District that we are very proud of is the Conflict Management Initiative. We were chosen as the prototype location to test the applicability of the conflict management tools and techniques for front line employees in the performance of their duties. The Problem Resolution Program was chosen because of our direct involvement with the ATAOs and Collection field function. Historically, our process to collect taxes has been position-based. This initiative has a unique twist. Although taxpayers often dislike tax administration, we believe that using the interest-based approach will enhance our skills in identifying and addressing taxpayer concerns. We also hope that using this approach to problem solving will help tax-

payers recognize their interests are being considered, even if the outcome cannot be changed.

The Taxpayer Advocate Report identified many areas which tremendously effect our taxpayers. Of those, I strongly concur with the statute of limitations on refunds and the delays by IRS in processing Offers-in-Compromise. Additionally, while we understand the need for the imposition of certain penalties to ensure compliance, we have found that the imposition of the Failure to File penalty on tax exempt organizations under Code Section 6033 creates an undue hardship on the small non-profit organizations in my district. These are your PTA's, homeowners' associations, women's clubs, softball leagues, Veterans Associations, etc. The problems these small organizations encounter in complying with the filing requirement are compounded by the fact that their officers are volunteers, are not knowledgeable about tax filing requirements, and are often changed from one year to the next. Therefore, the majority of these penalties are abated due to reasonable cause. However, the abatements usually occur after considerable utilization of resources on the part of the non-profit organizations and the Service. For example, the issuance of failure to file notices, the filing of the returns by the tax exempt organizations, the assessment of Failure to File penalties, the requests for abatements due to reasonable cause, and the consequent removal of the penalties by the Service are quite consuming and not cost effective.

If the filing requirement under Code Section 6033 were to be increased from \$25,000 to \$50,000, this would alleviate the filing requirements for many of these small non-profit organizations and reduce taxpayers' burden. Another issue that is not uncommon in the Problem Resolution Office is the guideline governing Federal Tax Deposits. With the present guidelines, employers are having difficulty applying the deposit requirements correctly. Specifically, the problem lies with the "look-back" period used for determining whether an employee deposits monthly or semi-weekly. The "look-back" period consists of the first and second quarters of the prior year and the third and fourth quarters of two years prior. For example, in tax year 1997 the "look-back" period is the first and second quarters of 1996 and the third and fourth quarters of 1995. Many employers misinterpret the "look-back" period to be the prior four quarters, thus possibly creating errors in the method of depositing. The Problem Resolution Office reviews each case on an individual basis to determine if the resulting federal tax deposit penalty should be waived.

Generally, the guidelines are misinterpreted by the bookkeeper and the employer. Our office educates the taxpayer on how to determine the deposit method, and if warranted, abate the applicable penalty charge.

In closing, I would reiterate the need for the Taxpayer Advocate positions to remain an intricate part of Internal Revenue Service.

Chairman JOHNSON. Thank you very much. It is a pleasure to have you and we look forward to the dialog between us developing each year so that it is more and more specific.

I appreciate your comments about the arbitrariness of the statute of limitations law and some of the other things you have brought up. I thought your comment, Ms. Goldstein, about the EITC was a very interesting one, because it is odd when you do something to help low-income people that it is so complicated that they cannot do it themselves and, furthermore, they have to pay someone else to do it, which they cannot afford to do. We had planned to come back to that this year, but we have been through this before and it is very hard to fix because it does become too burdened, in my estimation, with social policy.

I just want to, by way of opening, I want to ask you whether the expanded authority to release liens and return levied property, the expanded authority to abate interest, and the ability to establish a process for termination of installment agreements, those expanded authorities that were in our last Taxpayer Bill of Rights, have been of any help to you and whether there are specific new powers, now, clearly, this right to override the statute of limita-

tions is one of them, but are there other authorities that you feel you need to deal fairly with the problems that you face? Have the things we have done helped and are there new things that we should do?

Mr. Romano.

Mr. ROMANO. I guess I would like to start by saying that it may be a little bit too early to tell on a couple of the issues that were in TBOR2. The expanded authority for interest abatement should help because it is an issue that we have seen raised with us locally for many years, and as the claims come in and the process rolls out, I think we will be able to have a better feel for whether or not it is going to be effective. But it does at least open the door for taxpayers to come in and request relief for not just a ministerial act on the part of the Government but a managerial act, which is something that they have been asking for.

The lien and levy procedures, I believe, will also help. We had to go in and ask for—we needed to have that clarified somewhat because we were not quite sure how we were going to be given the authority to make that determination. It is always going to be in the best interest of the taxpayer, obviously, to release a lien.

The way the language in the law was written, I think there is some perception out there on the part of the public and the taxpayers that in every case where there is an alternative means provided for payment, that the lien will be released. I am not sure that was the intent but that is the way it may be perceived by the public. So I think we are also going to see some development in that area as we get requests from taxpayers and we are going to be charged with taking the position and going to the functions in cases where we have to make a decision whether it is in both parties' best interests to do that.

I do not know if anybody has anything to add to that.

Chairman JOHNSON. Mr. George.

Mr. GEORGE. I would just like to add that on the scenario where we issued a Certificate of Discharge on the Federal tax lien, this was the second time that I had to go in and issue an order on it. I worked with Donna Steel several years ago on a like issue.

It was not necessarily that the Collections Department or the Service did not want to release the lien or withdraw the lien, but because of statutory requirements, it states as long as the Service has an interest or the Secretary has an interest in the property, it would make it very difficult to withdraw the lien.

I would like to say that with the Taxpayer Bill of Rights 2, I believe that we will be able to work much easier on those issues.

Chairman JOHNSON. Thank you.

I thought the point you made, Ms. Williams, about student loans and other agencies was a very interesting one that, frankly, I was totally unaware of. Thank you. Any other comments?

Mr. GEORGE. I have to agree with her. We see this happening this time of the year, where we have taxpayers that come in that have significant hardship and request that their refund be manually sent to them for whatever reason. Normally, it is because of eviction or just to provide necessary living expenses. And when we pull the account up on our system and there is a debtor master file where that particular individual has a student loan several years

ago and has failed to pay it back, we cannot bypass it. We are able to bypass the earlier tax liabilities, but as far as bypassing any debtor master file conditions, we cannot and I think we need to be able to.

Chairman JOHNSON. I would like to yield to my colleagues. Let me ask you a very simple question first, though. What portion of your caseload is small business and what portion is individual and has that proportion changed over the last 5 years, roughly?

Mr. ROMITO. I do not have that information available and I cannot pull it off the top of my head.

Chairman JOHNSON. I do not want specifics. Just generally, is it mostly small businesses you deal with or individuals and has that changed?

Mr. ROMITO. We deal mostly with individuals, but it depends on your definition of small business. If you are talking about sole proprietors also, there is probably a 70:30 mix in my organization.

Chairman JOHNSON. Thirty percent being the small businesses or individual and sole proprietors?

Mr. ROMITO. Thirty percent small businesses.

Ms. GOLDSTEIN. In my district, I would estimate about 50 percent are businesses. We do not have a means of segregating the small business from the larger corporation, but about 50 percent of the cases coming through the Midwest District, I would say, are from business taxpayers, usually surrounded around the issue of Federal tax deposits, the penalties that are assessed against them for failing to deposit timely. It is about 50:50.

Ms. WILLIAMS. I would tend to agree with her. It probably runs about 50 percent, more so when you get an application for a Taxpayer Assistance Order. You run heavier to business where they have seizures or liens or levies than you do individuals, though, unless it is during filing season when we are processing their manual refunds.

Chairman JOHNSON. Mr. Coyne.

Mr. COYNE. Thank you, Madam Chairwoman, and thank you all for coming here today and helping us out with the issues that we face here.

Mr. Romito, does the Pittsburgh Office entertain free taxpayer filing to any extent, where people can just walk in and get their taxes done or have them done by electronic filing?

Mr. ROMITO. We do not have a free operation. In prior years, we used to have a concept called self-help where we would gather taxpayers into groups as they queued up at the entrance and take them into a classroom setting and go through the preparation of simple tax returns with them, but the mix of resources has precluded that in the last few years.

What we have done instead—this year, for instance, we have set up a Volunteer Income Tax Assistance site in the Federal Building and as the taxpayers come in who need forms preparation, we set them up with appointments at the taxpayer assistance site. As they ask normal tax questions at the walk-in area, we will be glad to answer those, but to the extent that you start taking them through the form line by line by line, we have not been doing that this year. We also do not have free electronic filing this year, either.

Mr. COYNE. Do any of the other panelists provide that service?

Mr. ROMANO. In Connecticut, Rhode Island, we do offer electronic filing at least 1 day a week in all of our offices within the States. The offices are open—some of our larger offices are open more days a week and our smaller ones are only open 1 day a week, but any taxpayer who comes in with the necessary documentation is offered free electronic filing, assuming they have everything with them when they come in, and then we offer the other tax assistance, paper preparation and also the question and answer type assistance.

Ms. GOLDSTEIN. In the Midwest District, we are similar to the other two offices. We have a Voluntary Income Tax Assistance site one floor below the walk-in service of our customer service division. What we have been doing, I believe nationally as an agency, is aggressively marketing the availability of TeleFile to the almost 26 million people who are eligible to use it. We are hoping that by increasing the level of access for those people eligible to use TeleFile, it may relieve some of the burden from people who ordinarily think they could file electronically but, in fact, have a much simpler way of doing that and that is file by telephone.

Mr. COYNE. Mr. Romito, what advocacy projects have you initiated in an effort to make the IRS and the Problem Resolution Program more effective and fair for taxpayers? Is there something that you could elaborate on that you initiated?

Mr. ROMITO. Advocacy takes many faces and we have a lot of small projects that we work on, but the major significant project that we have attacked this year is one of those that I alluded to in my testimony, where we are attempting to take care of internal problems, organizational problems that to the taxpayer might be transparent. Unique to our situation is the fact that we have the office in Pittsburgh that used to be a district office and the office in Philadelphia and the way we processed Problem Resolution cases was not necessarily the same in both.

Now that we have consolidated the two offices into one district statewide, we have undertaken new process analysis to go through the processes in handling cases in both districts, taking the best practices from each of the offices, sharing those, developing a singular process that we can then reduce to a written guideline so that no matter where the taxpayer is located in the State of Pennsylvania, their case is going to get processed the same way on either side of the State so that we have consistency of approach and consistency of treatment.

Mr. COYNE. I am interested in your reaction to the sentiment that exists that the EITC program is rife with fraud. Is that your sense from your experience with the IRS, that the taxpayers purposely mislead the IRS in order to get the benefits of the earned income tax credit program?

Mr. GEORGE. Congressman, I am not sure whether it is a deliberate attempt by taxpayers to defraud the Internal Revenue Service from earned income credit. It definitely does happen and it is happening where the taxpayers do, in fact, file deliberately head of household, for example, so that they can maximize the amount of earned income credit that they would qualify for.

The reason why I do not believe that across the board it is a deliberate attempt in all cases, there was an incident last year where

there was a single parent who had three children. The maximum earned income credit, it maxes out at two children so she went ahead and allowed her mother to take the exemption for the third child. She said that on television. I believe that she did not know any different.

I believe the Service is doing a good job. Each year, we enhance the capabilities of detecting these fraudulent returns. The math error notice that is going out this year will be one area that is going to be very helpful to assist taxpayers who have fallen in the crack and may not deserve a math error notice, where last year it was an exam issue and we had to go through the 90-day statute letter.

Mr. COYNE. So many of these instances that might be labeled as fraud are, indeed, as a result of the complexity of filing the EITC return?

Mr. GEORGE. I believe it is complex. I was talking to a taxpayer not too long ago, as a matter of fact, several weeks ago, and they did not know the mechanics of the form.

The form itself is fairly simple. But it is the instructions this is overwhelming in many cases, and those individuals that most deserve the earned income credit are forced to go to practitioners and other agencies to prepare the return for them.

Mr. COYNE. Thank you very much.

Chairman JOHNSON. Mr. Portman.

Mr. PORTMAN. Thank you, Madam Chair.

I appreciate the testimony from all five of you. It is very interesting and I am glad that, Ms. Williams, after how many years with the Service?

Ms. WILLIAMS. Fifty.

Mr. PORTMAN. After 50 years with the Service, that you are able to come here and give us your two cents worth. You may give us more before the afternoon is over.

Quickly, Ms. Goldstein mentioned her role in this Taxpayer Advocate's Report by saying, I was glad to see some of the things I recommended. Did you get asked your opinion by the Taxpayer Advocate as to what the 20 leading problems were? Did you get asked in terms of the 10 areas that he listed that are paperwork problems and so on? How did you participate in this process?

Ms. GOLDSTEIN. Every quarter, District Taxpayer Advocates are required to provide a report to our Regional Taxpayer Advocates on the activities of our office for the quarter and one of the requirements of the report in the Mid-States Region, which is headquartered in Dallas, is they want us to list what we believe are the top 10 problems that are causing burden for taxpayers. Many of the items that I saw in the Taxpayer Advocate's Report to Congress were, in fact, the same items I had advanced in those quarterly narratives to our Regional Problem Resolution Officer.

Mr. PORTMAN. Is that the same with all of you here? So you feel as though you are getting input into this annual process through these quarterly reports?

Mr. ROMITO. Not directly to the Taxpayer Advocate, perhaps, but through the regional staff.

Mr. GEORGE. Through our quarterly narrative.

Mr. PORTMAN. But, Mr. Romito, you do not feel there is any problem in getting that to the Advocate, even though you do not report to the Advocate? You are getting those through?

Mr. ROMITO. No. None.

Mr. PORTMAN. Of course, my second question is one that I addressed to Mr. Monks earlier and I saw kind of a shaking of heads and maybe some reaction. Some would say it would be self-interest for you to say that there should be a different grade for the District or Regional Taxpayer Advocate. Some would say that maybe you should not address the problem because Mr. Monks is here and other IRS senior people. But can you give me your honest evaluation of this? Is this a problem? Let me just restate it, if I might. The concern is, a guy like Mr. George has issued two of the five ATAOs, as I understand it, is that correct?

Mr. GEORGE. That is correct.

Mr. PORTMAN. Here he is, a guy who has been with the Service for a long time, maybe not 50 years yet but working his way—

Mr. GEORGE. Not quite.

Mr. PORTMAN. Not quite. He is working on it. Obviously, you would like to progress. You would like your career to progress, and you are at the point now, as I understand it, within the Taxpayer Advocate ranks where you are at the highest level you could be in, at least within the South Texas Area.

Mr. GEORGE. That is correct.

Mr. PORTMAN. Unless maybe you came to Washington, DC. Yet, you are working with these other functional heads who are of a different rank and they are of a higher rank and that would be maybe what you would aspire to if you were to proceed on your career. Does it make sense to increase your rank so that your rank is comparable to those that you deal with every day, including those who you are going to with ATAOs?

Mr. GEORGE. I can only speak on behalf of my own opinion here, is that I have not found my grade as a hindrance on dealing with either the Branch Chief, the Division Chief, or even the District Director. I believe the authority that has been given to the Taxpayer Advocate in the Taxpayer Bill of Rights and the Taxpayer Bill of Rights 2 sends a clear message that we do have the authority to act on behalf of the taxpayer when that issue may arise. I do not know if it has anything to do with grade. The grade is a problem as far as a normal progression within our career fields. I am, in fact, at the highest grade that I can achieve right now.

Mr. PORTMAN. As long as you stay as a Taxpayer Advocate.

Mr. GEORGE. That is correct.

Mr. PORTMAN. So you would have to leap back into one of the other areas and perhaps that would influence not you but perhaps, objectively speaking, just knowing human nature as we do, might influence someone's performance even as a Taxpayer Advocate if that person knew that person had to then move to one of the other functional areas.

Mr. GEORGE. Right, because my background is mainly with collection and I have had some taxpayer service background. So for me to go anywhere from my current position, I would go back into collection.

Mr. PORTMAN. Any other thoughts on that? We are running out of time, unfortunately.

Ms. WILLIAMS. Since I am going to retire, they cannot fire me. [Laughter.]

Mr. PORTMAN. I am glad you are here.

Ms. WILLIAMS. I am the same grade now that I was 10 years ago when I came in as the Problem Resolution Officer. In that time, my responsibilities have tripled. You gave me the first Taxpayer Bill of Rights. Now you have given me TBOR2. You have given me life and death control over taxpayers' futures, as to whether I release a levy or not, whether they are going to get paid this week or next week. And yet, I am the same grade as most branch chiefs.

I feel that, perhaps not all the PROs, and this is my own personal opinion, but those that have toll-free cites, excuse me, customer service sites now, and those that are service center PROs deserve some recognition of the additional responsibilities and the duties they have, and I know it is not for me because it is too late, but there are a lot of them that do deserve more recognition than they now receive.

Mr. PORTMAN. In terms of the grade?

Ms. WILLIAMS. In terms of the grade.

Mr. PORTMAN. And that would relate to whether they were at a service center or whether they were at a regional level rather than district level?

Ms. WILLIAMS. Well, not regional.

Mr. PORTMAN. But at a customer service site?

Ms. WILLIAMS. Customer service sites are much larger, as are the service center PROs.

Mr. PORTMAN. Any other thoughts on that?

Ms. GOLDSTEIN. The only thing I would like to add is the fact that for those of our districts that consolidated, we went from one State to responsibility now in the Midwest District for three States, so we are virtually taking over, if you want to call it three Problem Resolution Programs and putting the responsibility for the three onto my shoulders.

Now, of course, the other side would say as Division Chiefs in the Midwest District who have now assumed three Collection and three Examination Divisions, their grade has not increased although the work has dramatically increased by placing the headquarters office for the Midwest District in Milwaukee.

My greatest concern, really, is the fact that—and it is not based on grade, whether we will have sufficient resources so that we can continue the level of service in our associate districts that we had in the past. That would be more of a concern to me as far as servicing our customer than the grade level.

Mr. PORTMAN. You kept a Taxpayer Advocate in those locations?

Ms. GOLDSTEIN. They are considered Associate Taxpayer Advocates, yes.

Mr. PORTMAN. Any other thoughts on that, and then I relinquish my time.

[No response.]

Mr. PORTMAN. Again, thank you all for being here.

Thank you, Madam Chair.

Chairman JOHNSON. Actually, I think Mr. Portman raises a very good point. Part of the change from Ombudsman to advocacy and part of the reason for this direct report is to try to enable the agency from the frontline to talk more directly to Congress and to have no way of advancing your career through this, I think, extremely important function of the IRS and one that has a certain accountability of the other division does seem to me a problem and it is one we will think about. I appreciate your comments.

Mr. Hulshof.

Mr. HULSHOF. Thank you, Madam Chair.

Chairman JOHNSON. Excuse me. I am sorry.

Mr. HULSHOF. Go ahead. I defer.

Chairman JOHNSON. We will go to Mrs. Thurman. I thought you had left.

Mrs. THURMAN. I did not leave.

Chairman JOHNSON. I am glad you did not.

Mrs. THURMAN. Thank you, Madam Chairman.

Ms. Williams, in your statement that you submitted, you talked about fiscal year 1996, you had done a project involving collection PRP where you were looking at an average day of resolution of issues from about 78 days and you dropped it to 30 days.

Ms. WILLIAMS. Yes.

Mrs. THURMAN. That is pretty remarkable. Did you share that with other offices, or when you are able to do something like this and show that kind of result or an efficiency in government, how does that get back to the other regional offices and offices?

Ms. WILLIAMS. We share it with our Regional Problem Resolution Office—excuse me, the Regional Taxpayer Advocate. This was really an opportunity for us to look at what our employees were doing and to utilize the computer system we have got more effectively. It was also a change in management in the area. There were a lot of things that contributed to the large timeframe and then our reduction efforts. But it was a systems review of all the work they did and how they controlled their cases, how they did their follow ups to make certain they met all their deadlines and timeframes.

Mrs. THURMAN. So I guess the next thing I should ask the other panelists is, did you hear about this program and this project and, in fact, have you looked at a way of implementing this to do something similar or did you not have a problem with 78 days?

Mr. GEORGE. We did not have a problem exactly with the 78 days. What we did do was look at that report. We had a problem with timely response back to congressional offices, when a constituent writes. We did an advocacy project to see what we could do to reduce that timeframe. After we have gone through the steps of analyzing the process, we determined that what was delaying the movement of the letters was the many management levels of approval up to the Director.

After about 6 months of reviewing the possibility of reducing the number of approval levels, I presented the project to the District Director and it was agreed that—congressional inquiries fall into two different categories. They fall into very highly sensitive issues and very easy to answer issues, “Your refund will be sent out in a day or two.”

So we tested the feasibility of having the manager or the case-worker sign the less complex congressionals and the other ones go forward for the District Director signature. This has reduced the cycle time immensely in getting back to the congressional offices so that they can, in turn, get back to their constituents.

Mr. ROMITO. Whatever perceived lack of communication there may have been in the past, I think that is going to be addressed through what we have just established in the way of regional advocacy councils, where each of the four regions will have teams of executives and field people meeting to discuss what can be done to help the taxpayer and then when those regional council representatives get together, they will share what has surfaced in the other regions so that we will have that across the board ability to be able to take the best practices from one and apply it, as appropriate, to another.

Mrs. THURMAN. Mr. Romano, did you wish to comment?

Mr. ROMANO. Quite frankly, we did not have a problem with the 78 days.

Mrs. THURMAN. OK.

Mr. ROMANO. We have not had a serious problem with the cycle time for processing in our district. I think we have been—I mean, we are always going in and looking at ways where we can continually improve the systems that we are currently using and when we do come up with a new way, we share that.

Lou mentioned before that they work cases online, on a computer, in his district and we do the same in Connecticut-Rhode Island and we found that that is going to be a process that, hopefully, the whole country some day will be able to get on where we can take a look at not only what is going on out there as far as resolving taxpayers' problems but look at individual cases to make sure that there is no duplication of work and that kind of thing.

Mrs. THURMAN. You called it the Advocacy Council?

Mr. ROMITO. Yes.

Mrs. THURMAN. When was that started, and has that started yet?

Mr. ROMITO. It has started. Every region has had their teams assembled. The composition may vary from region to region. I guess one of the basic spinoff points was that within the Advocate's report, you may have noted that there were some major topics that needed to be addressed and various topics, various issues have been assigned to each of the councils that they can work on.

Mrs. THURMAN. I guess the other part of this is that many of you have said that when you are asked to identify major areas, Ms. Williams said that she probably would have sent up the same one in different priorities. When you are asked to identify that, are you asked to give suggestions as to ways to resolve those problems or are you just supposed to identify what the problem is and that is it, or do you get input into ways—

I guess the issue here is, if there are several of these problems out there and if there are things that each one of you have been doing in your own offices that have maybe alleviated that or cut down that as a problem, I mean, we hear across every agency that there is always a lack of communication from one place to another. We can identify problems, but can we fix them and are you given that opportunity with input to fix them?

Ms. GOLDSTEIN. Generally speaking, when they solicit our ideas for what the problems are, they will ask for recommended solutions at the same time.

Mrs. THURMAN. And do you do that?

Ms. GOLDSTEIN. Usually, if, in fact, I have a recommended solution.

Mrs. THURMAN. Do you see them implemented?

Ms. GOLDSTEIN. Not necessarily, but only because sitting in a district, I am probably a little bit of a Pollyanna in that I may go forward with a solution but, in fact, it may not be the solution that can be implemented under the structure we now have.

Mr. GEORGE. As a Taxpayer Advocate, I have participated on several issues involving the trust fund recovery penalty, formerly known as the 100-percent penalty. I am currently on the lockbox task force because we are looking at that.

I think Lee has done an excellent job in involving the functions in saying that we need to look at a process but we also need to look at reducing taxpayer burden while we are looking at that process. So it is because of our position and the promotion of our program that we have representation on most national and regional levels.

Mrs. THURMAN. And I think that is probably true. My concern mostly, though, is representation is not enough. It is once that you give a suggestion that you have tested in your own field office, based on the issues that you know to be your biggest problem, where does it go after that? That is the issue. I think that is what we are all trying to get to. And then, does that get done? We would like to think that the people on the frontline are the ones with most of the answers, quite frankly.

Mr. GEORGE. With the trust fund recovery penalty initiative, yes, there were recommendations that were made to the Executive Committee and they were implemented. With the lockbox, we are currently studying that and a report is going to go to the Commissioner and to the Deputy Commissioner on what our findings are. So to answer your questions, yes, I have seen our recommendations implemented and move forward.

Mrs. THURMAN. Madam Chairman, may I just ask one more question?

Chairman JOHNSON. Yes.

Mrs. THURMAN. Do any of you feel that you cannot talk to your representatives about issues that might be affecting how we do business better?

Mr. ROMITO. No. We have excellent relations with the representatives.

Mrs. THURMAN. We just hear sometimes, not necessarily from you all, I am not pointing fingers, but sometimes we are told they cannot come tell us what is going on out there, so I just wanted to make sure that I can pick up the phone and call any one of you and you can tell me what is going on. Thank you.

Chairman JOHNSON. Thank you very much for your participation today. I think that—

Mr. HULSHOF. One more.

Chairman JOHNSON. Excuse me.

Mr. HULSHOF. That is OK, Madam Chair.

Chairman JOHNSON. I am sorry. Mr. Hulshof.

Mr. HULSHOF. Thank you very much.

Thanks for your participation, to follow up on Madam Chair's comment. I appreciate you being here. Ms. Goldstein, I happen to represent the hard working overburdened taxpayers in Missouri's Ninth District, which is in the Midwest Region, so I want to direct some comments to you or questions to you, but please, the rest of you, feel free to chime in.

Your last answer, Ms. Goldstein, about great ideas or innovative ideas that you come up with, but I detected that the rules are somewhat inflexible or that you lack some flexibility due to the structure that is in place. Is that fair?

Ms. GOLDSTEIN. No. Actually, in the past, I think most of the field PROs would agree that when we would submit a problem with a recommended solution to that problem through our channels, it fell into a black hole. We very rarely would even get a response back as to whether or not they recognized and acknowledged the problem and whether or not they believed that the solution was good enough to implement.

Since the inception of the Advocacy Councils, I believe that is a much more structured way I can get my voice heard up to the Taxpayer Advocate through the region, and I do not feel in any way that the Regional Taxpayer Advocate filters any of that information through her office before it gets forwarded on to the Taxpayer Advocate.

As Mr. Romito had mentioned, many of the issues that we raise as field advocates are the real nitty-gritty, can you fix this line on this tax return? They are not the large global issues that we probably are dealing with here in the congressional hearing.

So yes, I would have to probably recant what I said earlier and say, yes, those types of issues that I have elevated for example, if a certain segment of the population is not receiving their refund checks and, there seems to be a problem, I get very quick response and they generally will implement a solution to fix that problem. It is usually the larger issues, the situations with how do we increase access to toll free under the limitations we now operate that I do not see implemented, but also, I know the difficulty in getting that done.

Mr. HULSHOF. Earlier, during Mr. Monks' testimony, I think we discussed briefly a celebrated case recently that went all the way to the United States Supreme Court and there was some discussion about legislative changes as opposed to perhaps administrative changes.

Again, Ms. Goldstein, I will throw this question to you but would invite other response. Do you believe that most problems that you deal with on a day-to-day basis can be dealt with on the legislative side or the administrative side? Ms. Goldstein.

Ms. GOLDSTEIN. It is probably a two-edged sword. I have to remember in my role as a Taxpayer Advocate that I am also the advocate for the millions of taxpayers out there who do not bring a problem to my attention, the people who file their return timely, and pay their tax timely. When I consider the type of situation that the Chair had mentioned in regard to that Supreme Court decision, I have to also think about, what will the impact of a decision or

a legislative change have on all those taxpayers who are complying and filing on time?

I think we have to look at the fairness for all of those people. The example you gave of that case, how would the general public feel if we gave certain situations the allowance to extend the statutory period for filing a claim when, in fact, they might feel, I file my return timely. Why can't this other person do the same?

So I think whatever legislation, whether it is legislatively mandated or administratively mandated, I believe it is important we look at that silent majority out there who are complying with the tax law and do not bring the problems to our attention.

Mr. HULSHOF. Does anyone else want to comment on that question or Ms. Goldstein's response? Mr. Romito.

Mr. ROMITO. Yes. I think that just a quick note. In both TBOR1 and TBOR2, many of the provisions that were codified by that legislation were already in place administratively. So the answer to your question is, depending on the situation and the issue, a lot of it can be handled administratively.

Mr. HULSHOF. I see my time is quickly expiring. Let me move to this last area that I am really interested in. Some of you touched on VITA, as you call it, the volunteer help, taxpayer assistance. In the Midwest, Ms. Goldstein, I wanted to give you a chance, what are you seeing as far as community-sponsored ways or employer-sponsored ways to help people as far as electronic filing is concerned, because I think this is something that is worthwhile. Could you share with me on that?

Ms. GOLDSTEIN. I feel we get a lot of support from the community, not only through VITA, the Volunteer Income Tax Assistance sites, but through another community-based help system which is called Tax Counseling for the Elderly, TCE, which is generally staffed by people who are members of AARP. They are there also to assist older Americans in filing their return and understanding the tax law. We also do partner with many employers, asking them to take on electronic filing as a benefit for their employees.

I personally feel we have a very strong relationship with our community. Our taxpayer education coordinator does a wonderful job signing up these companies to support us in getting the taxpayers' returns timely filed.

Mr. HULSHOF. Thank you all.

Chairman JOHNSON. Thanks, and let me say that there will be 3 days for Members to insert matters in the record, if they care to.

On this last point about the telephone service, in general, do you have a message on the machine that tells about these other settings in which they could get advice? Do you use the SBA's corps of volunteers who offer their services for free to small businesses to help them get up and running? I mean, why only the AARP?

There are a lot of avenues of reaching very capable retirees who would be very good at helping, giving advice, and the senior volunteer corps, I guess it is called, at SBA would be sort of a natural that is already a known list to you in each district. But certainly, some kind of notice to all the senior citizen centers, if they have people who are interested in running a training session seems to me a way to spread that capability.

Let me just say in closing that it is, and I have noticed this over the 2 years that I have chaired this Subcommittee it is unfortunate that the public does not know the many positive things that the IRS does, not only in your division but in many divisions and many of the real reforms that you have adopted to speed processing, to make it more accurate, and to help people deal with the IRS.

But it is also true that we really do have a job to do and one of the things that we need you to think about as we develop this process of more direct communication between you and the Ways and Means Committee is we need you to think about solutions. If a tax law is really complicated, we need to have that noted down, what area in as much information as you can give us. If you have suggestions about deleting portions and what you think would be the fairness, because, see, sometimes your comments would be couched in, this would be a great solution. It may mean that you will have to change this other thing over here because it will be unfair.

So it is very important, I think, for you all to focus as much on solutions and legislative solutions as you do on problem identification, because we have, particularly over the last decade when we did not want to raise taxes, we have made an absolute art of raising taxes in ways that nobody can see, but they have the same effect. The handmaiden of that approach to revenue is complexity. It is not just fairness and social justice. Some of this complexity is motivated by subterfuge, and it is infuriating, but that does happen, you know it and I know it, and we have to take more responsibility for it.

One of the reasons we wanted you to be part of this exchange, and you will be every year, is so that you can hold us accountable. Do not worry about us being insulted. Relative to what you could say to us, we hear much worse every time we are home, and if you do not believe it is to our advantage as much as to your advantage to do something about the complexity of the Code, forget it.

The other thing that you might think of, and I say this to Mr. Monks, too, is that maybe 20 is too long a list. Maybe we should be really asking you for 10 and the 10 projects that you are going to work on that are going to be part of what you are going to do the next year.

So do not hesitate to identify both strengths and weaknesses of this new process we are developing because I really think it has the potential to be a very important driver of the Subcommittee's work and we have never, ever had solid input from the agency as to how to change the tax laws. They tell us about what the administrative problems are. We talk about budget. We talk about what they think about what we think we might do. I mean, there is some level of exchange but we do not have any carte blanche way, no open door where you can say to us, these are the problems the taxpayer faces and this is the reason and this might be the answer and you have to look at this chunk of the law that you have got out there.

So I really invite you to think creatively in the future. We would like to come back to you with things that we are going to follow up on from the testimony that look to us like they are sort of doable in the near term because we want not only to keep this ball rolling from the point of view of the responsive relationship we

would like to develop but also from the responsive relationship we would like to develop with the Committee so that they get accustomed to each year the Oversight Subcommittee coming forward with changes that are in everybody's interest.

This is not about we/they in the end so much as it is about all of us, and if a country does not have an enforceable and fair Tax Code, it cannot collect the revenue. One of the sort of ironies and terrible tragedies in Russia is that the revenue is not coming forward because it was never structured to come forward in a fair way and so they do not have a Tax Code in our sense of the word and nobody feels any obligation to pay anything for anyone, much less for the public good. We are the freest society with an excellent record of compliance and we need to protect that by addressing the problems as they develop.

I thank you for your input to this Subcommittee and I look forward to working with you. You will be hearing from our staff. Thank you. The Subcommittee is adjourned.

[Whereupon, at 4:12 p.m., the hearing was adjourned.]

[A submission for the record follows:]

Statement of Amercian Institute of Certified Public Accountants Working Group, Mark H. Ely, Alvin M. Feit, Linda Martin, William F. Marutzky

I. INTRODUCTION

These comments on the Taxpayer Advocate's first Annual Report to Congress are being submitted in response to an invitation the American Institute of Certified Public Accountants ("AICPA") received from the House Subcommittee on Oversight. The AICPA appreciates the request for comments and welcomes the opportunity to work with the Subcommittee and the Taxpayer Advocate in addressing the concerns noted herein.

The AICPA is the national, professional organization of certified public accountants comprised of 331,000 members. Our members advise clients on Federal, state, and international tax matters and prepare income and other tax returns for millions of Americans. They provide services to individuals, not-for-profit organizations, small and medium-size businesses, as well as America's largest businesses. It is from this base of experience that we offer our comments.

The Taxpayer Advocate is in the unique position of being inside the Internal Revenue Service, yet having the specific charge of scrutinizing the Service's activities and recommending changes that will improve taxpayer services and the IRS's responsiveness to taxpayers. We understand that because the Taxpayer Bill of Rights 2 ("TBOR2") was enacted near the end of the year, the Taxpayer Advocate had little time to gather material for the first report. The Taxpayer Advocate's Report did identify many areas for improvement of the IRS; however, the tenor and tone of the Report is that of a self-evaluation by the Service. Given his role, the Taxpayer Advocate should be a more zealous advocate of taxpayers, rather than speak for the Service.

In section 101 of TBOR2, Congress directed the Taxpayer Advocate to provide the annual report and expressly stated that the report is not to be subject to prior review by the Commissioner of Internal Revenue, the Secretary of the Treasury, or any other officer or employee of Treasury or the Office of Management and Budget. The legislative history of that provision notes that "[t]he objective is for Congress to receive an unfiltered and candid report of the problems taxpayers are experiencing and what can be done to address them." Joint Committee on Taxation 104th Cong., 2d Sess., General Explanation of Tax Legislation Enacted in the 104th Congress 21 (1996).

Congress clearly expressed its desire for frankness in the report of the Taxpayer Advocate. The Taxpayer Advocate should take a more assertive role on behalf of taxpayers when addressing the Service's shortcomings. We hope that future reports of the Taxpayer Advocate will take a more critical view of the Service from the perspective of taxpayers, thereby offering members of Congress the candor they sought.

With the Problem Resolution Program celebrating its twentieth anniversary this year, it is an appropriate time to highlight the unique role the Taxpayer Advocate and the Problem Resolution Program play within the tax administration system

that of representing the interests of the American taxpayers, serving as the advocate of the taxpayers, not the advocate of the Service. In that role it is the Taxpayer Advocate's responsibility to ensure that the IRS abides by the fundamental principles of tax administration established for it, as set forth in Rev. Proc. 64-22, 1964-1 C.B. 689. (See Exhibit 1.)

REV. PROC. 64-22 STATES, IN PART:

—The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

—With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

—At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he is "protecting the revenue." The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

Keeping the unique role of the Taxpayer Advocate in mind, we offer the following input for consideration.

II. PROBLEM AREAS FOR TAXPAYERS

The following are areas that we believe the Taxpayer Advocate and his staff should review and consider advocating needed changes and/or corrective actions.

Interest Netting

Currently, there is a differential between the interest rate a taxpayer pays on a deficiency and the interest rate the government pays to a taxpayer on an overpayment; the differential rate can vary from 1 percent to 4.5 percent. Situations often arise when a taxpayer is indebted to the government at the same time that the government is indebted to the taxpayer. Absent netting, a taxpayer who owes the government the same amount that the government owes the taxpayer would incur an interest obligation in favor of the government.

The Service's current policy with respect to interest netting is fundamentally unfair, both because of the manner in which the Service makes interest netting calculations and also because of the Service's inconsistent application of netting principles, resulting in similarly situated taxpayers receiving disparate treatment.

Interest provisions in the Code are intended to compensate the government or the taxpayer for the use of the money. (Rev. Proc. 60-17, 1960-2 C.B. 942.) Interest applies only if there is an amount that is both due and unpaid. (See, e.g., IRC §6601(a) and *Avon Products, Inc. v. United States*, 78-2 U.S.T.C. (CCH) 9821 (2d Cir. 1978).) To the extent there is a "mutuality of indebtedness" between the taxpayer and the government (i.e., to the extent the government and the taxpayer owe each other the same amount of money over the same period of time), there is no unpaid balance and, therefore, no amount on which interest should accrue.

The Service's current policy (See Treas. Reg. §301.6402-1.) of only netting outstanding overpayments against outstanding liabilities for both computational and collection purposes is unfair to taxpayers that promptly pay contested amounts of tax and, therefore, have no "outstanding" liabilities. This is illustrated by the recent case of *Northern States Power*, in which the company's prompt payment of alleged deficiencies cost it \$460,000 more in interest than it would have had to pay if it had delayed in making the payment. (See *Northern States Power Co. v. United States*, 73 F3d 764 (8th Cir. 1996), cert denied 117 S. Ct. 168.)

Finally, and of significant import, despite the Service's stated policies toward interest netting (i.e., that netting can legally occur when both deficiencies and overpayments are outstanding and unpaid; see, e.g., Notice 96-18), netting continues to be performed on an ad hoc basis. A revenue agent's decision to deny a taxpayer netting is supported and justified by language in the Eighth Circuit's opinion in *Northern States Power*, which states that such netting is discretionary. However, the Service's discretionary application of the law without any formal or enforced guidelines, policies or procedures is inherently unfair to taxpayers. The virtual absence of any clear legal standards for interest netting also is unacceptable from a systemic standpoint, because it affords the IRS unfettered power to convert a taxpayer from a creditor to a debtor, with the size of a potential interest debt quickly becoming astronomical.

Further, viewing comprehensive netting as entirely within the discretion of the Service interjects serious fairness concerns into the settlement process. The Service

has used the netting issue as a bargaining chip in negotiations to extract concessions from taxpayers on issues under examination. This inappropriately distances negotiations from the merits of the underlying issues. It also has the inappropriate effect of using netting (or the absence of netting) as a tool to raise revenue, rather than as a means to compensate for the use of money.

The Service counters taxpayer comments regarding unfairness with claims that netting in all situations is not administratively feasible. While comprehensive interest netting raises concerns of administrative feasibility, more progress must be made in balancing these concerns against concerns of taxpayer fairness. The Taxpayer Advocate notes in his report that he has "a responsibility to address continuing systemic problems." Interest netting is one such problem.

For these reasons, we recommend that the Taxpayer Advocate work to ensure that guidance be issued to implement comprehensive netting in all situations in which the IRS currently has the administrative capability to do so. In all other situations, as an interim measure, guidance should be issued providing that the Service will net comprehensively at the request of the taxpayer, provided the taxpayer furnishes the Service with relevant information and interest computations. By "comprehensive netting" we mean netting for all interest accruing after December 31, 1986 for all types of taxes and all years (open or closed) to the extent necessary to compute interest accurately for a refund or an assessment in an open year. This interim recommendation is similar to the elective approach recently recommended by the House Ways and Means Subcommittee on Oversight, as well as the approach of a draft revenue procedure submitted by the Compliance Subgroup of the Commissioner's Advisory Group at its January 1995 meeting.

We also recommend that guidance in this area be issued in the form of proposed regulations, so that all interested persons will have an opportunity to comment on the technical details. As stated by House Committee on Ways and Means Chair Bill Archer in his letter to Treasury Secretary Rubin dated September 26, 1996: "In my view, Congress has given Treasury and the IRS both a clear mandate and clear authority to implement comprehensive procedures to net underpayments and overpayments before applying differential interest rates." Chairman Archer concluded that "[i]nterest netting is an [sic] problem that Congress has long expected would be resolved administratively and I certainly hope that Treasury will reexamine its position on this issue." This would be an appropriate area for the Taxpayer Advocate to work to see that the interests of taxpayers are protected. If it is determined that the Service is legally prohibited from netting in certain circumstances, the Taxpayer Advocate should recommend a legislative remedy.

Consistency When Implementing IRS Policies

Often, the Service will institute policies designed to assist taxpayers or clarify the application of particular Code sections. However, when the Service institutes policies that impact taxpayers it can be unfair when those policies are applied only to some taxpayers. At times policies are designed to apply only to particular taxpayers, and those instances are not at issue. But, when a benefit is intended to apply to a taxpayer, and through ignorance or capriciousness, an agent fails to give the taxpayer the benefit of those policies, it is to the detriment of both the taxpayer and tax administration. One such example is cited above, in reference to interest netting. However, other examples exist.

On June 3, 1996, Assistant Commissioner (Examination) issued a memorandum to all regional compliance officers regarding overly broad Information Document Requests ("IDRs"). The memorandum was, in part, in response to complaints from taxpayers and practitioners about revenue agents initiating an examination and immediately requesting an array of documents, many of which prove to be irrelevant to the examination. The well-reasoned memorandum of the Assistant Commissioner (Examination) set forth a standard for issuing document requests: an IDR should be issued for specifically identified issues or specifically identified reasons. The memorandum made it clear that "kitchen sink" or "boxcar" IDRs are inappropriate.

The experience of many tax practitioners is that the guidance issued by National Office is sometimes disregarded and, in this instance, many agents are unaware of the memorandum. As a result, taxpayers continue to receive these overly broad, burdensome document requests. From the standpoint of a taxpayer representative, it is imprudent to bypass the revenue agent; taxpayers often must comply with these IDRs, which can be time-consuming and costly. As a general principle, the Service must strive to communicate its policies more uniformly throughout the organization. Policies should be meaningful, and there should be consequences when an agent or appeals officer disregards a policy set forth by the National Office.

This problem is partially a result of the fact that more and more National Office directives to field offices are issued by memorandum rather than through the Inter-

nal Revenue Manual (“IRM”). This practice causes problems when a policy set forth in a memorandum is never made official and permanent by incorporation into the IRM and is eventually forgotten or overlooked and is often unknown by those outside the IRS. The Taxpayer Advocate should review this practice and work to assure that policies are made a permanent part of the IRM and are applied consistently and uniformly.

Method of Evaluating Revenue Agents

The IRS Mission Statement states “[t]he purpose of the Internal Revenue Service is to collect the proper amount of tax revenue....” It is noteworthy that the IRS’s mission is to collect the proper amount of tax, as opposed to maximizing revenue or protecting the Treasury. However, the Service’s methods of evaluating its personnel focus on the latter, maximizing revenue and protecting the Treasury. Examination’s Program Letter for Fiscal Year 1997 includes the following Examination measures:

- Total Recommendations: Proposed additional tax and penalties.
- Total Recommendations per FTE: Total recommendations divided by the total full-time equivalents.
- Total Revenue Protected: Total dollars protected as a result of disallowing claims for refund.

As these measures indicate, the Examination Division’s performance is evaluated solely based upon factors other than determinations as to the proper amount of tax. The conflict between performance measurement and correct determinations can result in overly aggressive positions or determinations by revenue agents. (It should be noted that revenue agents are also evaluated based upon Recommendations per FTE.) To ensure a fair application of the tax laws, the Taxpayer Advocate should encourage the Service to abandon the practice of evaluating performance based solely upon factors that may conflict with the IRS Mission Statement and instead develop evaluation measures based on making proper determinations of tax.

IRS “Test” Programs

In an effort to enhance taxpayer service, the IRS has implemented several test programs or other programs that are limited to select groups of taxpayers. It is the intent of the Service that to the extent a test program proves to be effective, it will be expanded to other groups of taxpayers. Unfortunately, expanding the scope of taxpayers who may avail themselves of some of these programs often takes years, if it in fact ever occurs. Some of these programs are naturally suited to be expanded into other areas.

For example, in Fiscal Year 1996, the Service began a one-year test of mediation with certain types of cases in the Coordinated Examination Program. The Service has now announced that the “test” will continue for another year. To the extent that mediation has been used, it has been an unmitigated success. Furthermore, there are other taxpayers and subject matters that would be particularly well suited to mediation—such as valuation cases—that could benefit from the expansion of the mediation program rather than continuation as a “test”. Other programs that could be evaluated for expedited expansion include accelerated issue resolution, early referral, and the delegation of more settlement authority to the Examination Division. The Taxpayer Advocate should encourage the Service to expand these programs to taxpayers in general, or to other focused groups of taxpayers who would use these programs to everyone’s benefit.

Timely Case Resolution

Currently, there is no incentive for the IRS to complete an examination within the statutory period (without regard to extension). Furthermore, taxpayers faced with the prospect of a notice of deficiency are, in essence, forced to grant extensions of the limitations period as a matter of course. This practice defeats the general purpose of a limitations period: finality.

Too frequently the Service initiates an examination of a taxpayer’s return when there is insufficient time remaining within the statute of limitations (without regard to extensions) to complete the examination and make a correct determination of the taxpayer’s liability. In such a case, the IRS must either seek a consent to extend the statute of limitations or issue a statutory notice of deficiency. Ultimately, the choice falls upon the taxpayer; if the taxpayer extends the assessment period, a more accurate determination can be made; if the taxpayer fails to extend the assessment period, a notice of deficiency may be issued. In such a case, the notice of deficiency may be speculative or arbitrary, because the IRS failed to complete a thorough examination of the taxpayer’s books and records.

In response to a notice of deficiency, a taxpayer has two options: file a petition for redetermination with the United States Tax Court or pay the deficiency. Either alternative can result in substantial expense to the taxpayer. Furthermore, a notice of deficiency receives a presumption of correctness before the Tax Court. As a result of the consequences of the issuance of a notice of deficiency taxpayers generally are forced to agree to an extension of the limitations period.

In complicated audits, such as those involving large corporate returns, it may not be feasible for the IRS to complete an examination within the statutory period. Accordingly, in such cases, it may be reasonable for the government to request a consent to extend the statute. However, in audits of individual taxpayers, the government should complete its examination in the time prescribed by statute, without the need for extensions. The Taxpayer Advocate should review the practices of Examination and advocate changes, as needed, to assure more timely case resolution.

Penalty Abatements

The IRS assesses numerous penalties in response to which taxpayers spend a great deal of time documenting reasonable cause for having the penalties abated. The process is both time consuming and expensive. However, on both reasonable cause and IRS errors, the IRS abates as much as 50 percent of some types of penalties it proposes. Unfortunately, taxpayers without representation are often unaware of the opportunities for abatement. It may be possible to achieve a more cost-effective outcome by establishing criteria for reducing assessments that are likely to be abated.

To reduce the burden on both the IRS and taxpayers, we recommend that the Taxpayer Advocate review the penalty assessment and abatement practices of the Service and advocate improvements to the system. One suggestion is for the IRS to establish safe harbor provisions for a variety of penalties which would automatically be deemed to be reasonable cause for abatement. This could be confined to late filing, late deposit and certain information return related penalties. The object would be to concentrate on those penalties that are regularly assessed and abated. Safe harbor provisions could take the form of:

- No penalty assessments for an initial occurrence; however, the taxpayer would receive a notice that a reoccurrence will result in a penalty;
- Automatic non-assertion based on a record of a certain number of periods of compliance; or
- Voluntary attendance at some type of educational seminar on the issue in question, as the basis for non-assertion or abatement.

Use of this approach would encourage and create a vested interest in compliance, since a good history of compliance could automatically result in relief. Additionally, the likelihood of future abatements would diminish if the taxpayer has a history of non-compliance. Furthermore, a system of automatic abatements would reduce the time spent by the IRS and taxpayers on proposing assessments, initiating and handling correspondence, and subsequently abating a high percentage of penalties. The ability to abate a penalty for a reasonable cause other than those used for automatic abatements would exist; however, reasonable cause abatements requiring independent evaluation may be reduced.

Offers in Compromise

The Taxpayer Advocate's Report discusses the Service's inability to respond timely to the increased number of offers in compromise that have resulted from the 1992 change the Service policy. Prior to 1992, many districts had low acceptance rates for offers and there was a wide disparity of acceptance rates between districts. In 1992, the Service liberalized the rules for accepting offers, which resulted in a substantial increase in the number of offers being filed with the Service. Although the Service had a policy of making a decision on an offer within six months, a substantial number of offers were not completed within this time frame, some of which were due to a delay in district counsel's review of the recommendation to accept the offer. The Taxpayer Advocate's Report states that the problem may be alleviated on a high volume of cases because TBOR2 provides that counsel only has to approve offers when the liability exceeds \$50,000.

However, over the last four years, more significant problems with the program have developed other than timely response. These problems, discussed below, should be addressed by the Taxpayer Advocate.

1. Non-Processibility of Offers

In 1995, standards were developed in an attempt to eliminate the disparity of expenses allowed by the various district offices as well as between offices in the same district. Although the standards were developed to create uniformity among the various district offices, we believe that the standards have been used to return offers

to taxpayers before accepting them for processing, in order to decrease the time cases are in inventory. We are concerned with the substantial increase in the number of offers that are being rejected as non-processable or insufficient in amount and, therefore, not being taken into inventory. In regard to non-processability, offers are being rejected and returned to the taxpayer or the representative because of minor errors in completing the forms. In many of these cases, a telephone call by the revenue officer could have led to corrections allowing the case to be taken into inventory in a matter of days.

In other cases, offers have been rejected for insufficiency in the amount offered. The Service's rejections are due to a number of factors including:

a. The lack of uniform standards among offices. This includes the lack of a uniform "available income" discount rate to arrive at present value and the lack of a uniform discount rate to arrive at quick sale value per the Internal Revenue Manual.

b. Not allowing the use of expenses in excess of the national and local standards although there was justification for the excess. One example is excess housing costs. In some cases, it would be more beneficial to allow the excess than to have the taxpayer sell the residence, incur capital gains tax and increased commuting expenses and then be forced to pay nondeductible rent which increases the overall tax liability.

c. Disagreeing with reasonable values placed on assets by the taxpayer.

2. Revenue Officer Discretion

We believe revenue officers should be allowed to use the discretion contained in the Manual to allow variances from national and local standards when circumstances justify the variance. The standards should generally be followed but exceptions should be allowed if documented by the taxpayer. In many cases, justifiable exceptions are not being allowed.

3. Updating Standards

The standards should be updated and adjusted for inflation annually, based on the most current statistics available. We also recommend that the Service adjust the standards by moving the cost of food from a national standard to a local standard and by localizing the cost of housing by zip code rather than by county to allow for variances within a state. Further, the Service should adjust the housing standard to account for the taxpayer's income and the size of the family as it does for the national standards.

4. District Counsel Review

Offers that have been recommended for acceptance by revenue officers and appeals officers have been rejected by district counsel on grounds other than for legal sufficiency. We have heard offers have been rejected by counsel because counsel did not agree with the valuation placed on certain assets, concluded that the taxpayer should pay more with no support for this conclusion, or concluded that the assets might appreciate in the future. We do not believe this should be the role of district counsel in the offer process nor do we find support in the regulations for this role. The district counsel attorneys are not specifically trained in valuation, discounts for quick sale value or present value, or uncollectibility matters. The issue of collectibility should be left to collection and appeals personnel and counsel should opine only on the legal issues. If necessary, this may entail a clarification of the roles of each.

We believe the Taxpayer Advocate should undertake a study of the offer program to determine the reason for the acceptance rates declining, the increase in non-processable offers, the amount for tax dollars collected on rejected offers, and other problems discussed herein. Statistics from each district office should be analyzed to determine trends and the reasons for them and should be shared with interested stakeholders. We also recommend that the Taxpayer Advocate study the uniformity problems and fairness issues and make recommendations to the Service and/or Congress for changes to the offer program. We believe that the offer process is a viable tool for the Service to collect delinquent taxes and allow taxpayers a "fresh start".

Employee-Independent Contractor Issues

The seemingly simple question of whether a worker is an employee or an independent contractor continues to confound both individual and business taxpayers. Currently, the classification of a worker is based upon the "twenty common-law factors," which generally means that there is no single defining set of rules to determine a particular worker's status. As a result, businesses must make their "best guess" based upon the variety of authorities that exist, with costly consequences if the worker is misclassified.

An employer that has misclassified its workers may be liable for several years of withholding taxes that were not paid over on behalf of the worker, such as Federal income tax withholding and social security taxes. Furthermore, the employer's quali-

fied retirement plans may be at risk for failure to include a worker who should have been deemed an eligible employee. For the worker, several consequences exist, as well. If an independent contractor, the worker may be ineligible for numerous benefits offered by the business; however, the worker is entitled to deduct business expenses from revenues without limitation. A worker who is reclassified as an employee can lose the ability to deduct some or all business expenses.

Guidance by the Service on the issue of worker classification has historically been one-sided in favor of classification as an employee. Statistics indicate that over 90% of Forms SS-8 that are evaluated by the Service in order to make a determination as to worker classification result in classification as an employee. Rather than address each employment situation objectively, the Service seems to presume that a worker is an employee, unless independent contractor status can be proven. The Service needs to recognize that independent contractor relationships are a legitimate form of business and do not exist solely for the purpose of avoiding taxation. Each work relationship should be evaluated on its merits, without preconceived notions as to a worker's status.

To solve the problems that arise in the area of worker classification, the Taxpayer Advocate should work with Congress to establish a set of clear rules through which both employers and workers can readily define the workers' true status. Clear rules in this important area would increase certainty in the application and administration of the tax laws.

Entering the Electronic Age

The IRS has made progress in moving the organization toward the electronic age. One such example is the recent finalization of regulations that would permit the Commissioner to specify methods other than by mechanical signature to verify the accuracy of return information. In furthering its goal of paperless filing, the IRS held an ELF (Electronic Filing) Summit with taxpayers and practitioners during Fiscal Year 1996. At the meetings, the IRS was able to learn of the obstacles that prevent taxpayers and practitioners from increasing their usage of various means of electronic filing. The meetings seemed to be very educational for both the IRS and the taxpayer/practitioner community.

The IRS should continue to meet with taxpayers and tax practitioners regarding the myriad of issues that arise in the electronic age; the Taxpayer Advocate should gather information about those issues and communicate them within the Service to ensure that taxpayers' concerns (and potential concerns) are addressed by the Service in its development of the Electronic Tax Administration system. The technological abilities of taxpayers varies as widely as their income levels (and not necessarily correspondingly), yet the Service attempts to establish rigid policies that are intended to govern all taxpayers. Furthermore, the Service, through some of its guidance, seems to be attempting to give added focus to safeguards, to the detriment of computerization.

One example is the Service's draft revenue procedure regarding the electronic imaging of documents. One of the provisions in the draft revenue procedure stated: "For example, the imaging system and the taxpayer's books and records must be cross-referenced, so that all imaged documents that support an entry in the taxpayer's books and records can be automatically identified and retrieved for viewing or printing." However, if a taxpayer has original books and records, there is no requirement of a specific method of cross-reference.

The Service seems to be attempting to use the availability of electronic systems to place unwarranted additional burdens on taxpayers. The cliché image of the taxpayer with a shoebox full of receipts may be amusing, but if those receipts substantiate the items on the return, that shoebox is an acceptable method of record retention. The Taxpayer Advocate should take an active role in guiding the Service into the electronic age as it has evolved, rather than attempting to mold the electronic age around the IRS's goals.

III. TAXPAYER ADVOCATE'S LEGISLATIVE PROPOSALS

We would also like to comment on the legislative recommendations endorsed by the Taxpayer Advocate for further study and consideration. The first deals with a proposal to simplify the computation and assessment of the estimated tax penalty for individuals. We agree that the current statutory rules are complex for taxpayers and difficult for IRS to administer and we recommend that the Taxpayer Advocate work with the Congress to develop appropriate legislative remedies.

We also support reviews of the proposed exception to the statute of limitations on refunds so that untimely requests for overpayments may be credited to liabilities in other years, and of the proposed elimination of the failure to pay penalty on defi-

ciency underpayments. We recommend that the Taxpayer Advocate work with the Congress on these proposals.

IV. RECOMMENDATIONS FOR FUTURE REPORTS AND ACTIVITIES OF THE TAXPAYER ADVOCATE

TBOR2 requires that the annual report cover the activities of the Taxpayer Advocate for the prior fiscal year. It specifically requires that the report identify initiatives the Taxpayer Advocate has undertaken to improve taxpayer services and IRS responsiveness. In our view, the Taxpayer Advocate's Annual Report to Congress should serve as a report card on how well the IRS is doing in improving its service to and treatment of taxpayers. We recommend that future reports of the Taxpayer Advocate take a more critical view of the Service's operations and treatment of taxpayers, not only from the standpoint of individual cases, but from a systemic viewpoint. The role of the Taxpayer Advocate is to serve as an objective observer of IRS operations, to advocate on behalf of taxpayers and to candidly report to Congress on those operations. We encourage the Taxpayer Advocate to provide a frank review of the Service's performance.

Comparative Evaluation Standards

We recommend that the Taxpayer Advocate consider using the IRS Policy Statements that deal with the treatment of taxpayers as a yardstick against which the behavior of Service employees can be measured. It is recommended that the Taxpayer Advocate adopt a standardized comparative report format to detail the IRS's performance in meeting its own enumerated policies. A comparative report format could detail performance by functional areas of the agency and, over a period of time, serve to illustrate changes in those functional areas.

We also recommend that the Taxpayer Advocate develop measurement standards, in addition to the IRS policies, to be used for comparative evaluations. In preparing those measurement standards, the following principles of tax administration, set forth in Rev. Proc. 64-22, should be considered.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Review of IRS Practice Standards

We recommend that the Taxpayer Advocate and his staff review IRS practices to assure that the Service is being held to the same standards as taxpayers and their representatives. For example, if taxpayers are required to file and pay on time and respond timely to IRS requests for information, then the Service should also be timely in its actions. If taxpayers and their representatives face possible penalties if they take positions on their returns that do not have either substantial authority for taxpayers or a realistic possibility of being sustained for preparers then revenue agents should face sanctions if they propose audit adjustments that do not meet a minimum standard such as having a realistic possibility of being sustained.

Publication of the Advocacy Memoranda

The Advocate indicated in his report that he had issued a number of Advocacy Memoranda. However, these Memoranda were only referenced and were not identified in detail. It is recommended that the Memoranda issued by the Advocate's Office be published and made available for public inspection. We believe inspection will create an atmosphere that encourages public comment and ultimately improved service by the IRS.

Interaction with Professional Organizations

The Advocate's Report indicated that he has initiated an interaction with professional organizations. Indeed, the Advocate has met with the AICPA Tax Practice and Procedures Committee. However, to the best of our knowledge, no formal communication channel has been established nor has any formal system for interaction been adopted between the Advocate's Office and professional organizations. Yesterday, we received a letter from the IRS Office of Public Liaison extending to the AICPA an invitation to meet with the Taxpayer Advocate. We hope this constitutes the initial step in structuring an ongoing working relationship between the Taxpayers Advocate and the AICPA.

Professional organizations such as the AICPA are stakeholders in the tax system. However, the AICPA also acts in the public interest in performing its function. For

example, the AICPA has worked, in cooperation with the IRS, to learn more about the public's perception of the agency by conducting a survey of the attitudes of its members toward the IRS. The results of that study were made available to the IRS. Hopefully, the AICPA study offered insight into strengths and weaknesses of certain operational areas.

We recommend that the Taxpayer Advocate immediately endeavor to formalize relationships with stakeholders from the professional community, so that communications from these groups can be considered in the next report.

Detailed Reporting of IRS/Treasury Studies and Other Projects

Advocate's Report indicated references to a number of studies being conducted by the IRS either by Congressional mandate or by IRS/Treasury initiative. The Advocate's report did not identify completely nor provide a detailed explanation of those studies. It is recommended that the Advocate have a section in his report that identifies the studies and other projects relevant to tax administration being conducted by the IRS/Treasury; the report should outline the progress of those studies and projects and the specific activities of the Taxpayer Advocate in representing taxpayer interests in connection with them. It is further recommended that a section of the Advocate's Report be dedicated exclusively to the ongoing IRS/Treasury studies and projects.

Advocate Report Format

We recommend that the Advocate's Report adopt a standardized format by way of index and content. If the report is submitted in a standardized format, much of the information that would be presented could be used for comparative analysis. Since similar information would be prepared and submitted in subsequent reports, readers might find it more communicative.

V. CLOSING

The AICPA appreciates the opportunity to offer these comments and is willing to provide the Subcommittee and the Taxpayer Advocate with additional assistance and comments as requested.

EXHIBIT 1

Rev. Proc. 64-22 n1

n1 Also released as Technical Information Release 592, dated May 1, 1964. 26 CFR 1.9100-1: Extension of time for making certain elections. (Also part I, Section 614; 26 CFR 1.614-2.)

1964-1 C.B. 689; 1964 IRB LEXIS 361; REV. PROC. 64-22

Statement of some principles of Internal Revenue tax administration.

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he is "protecting the revenue." The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.